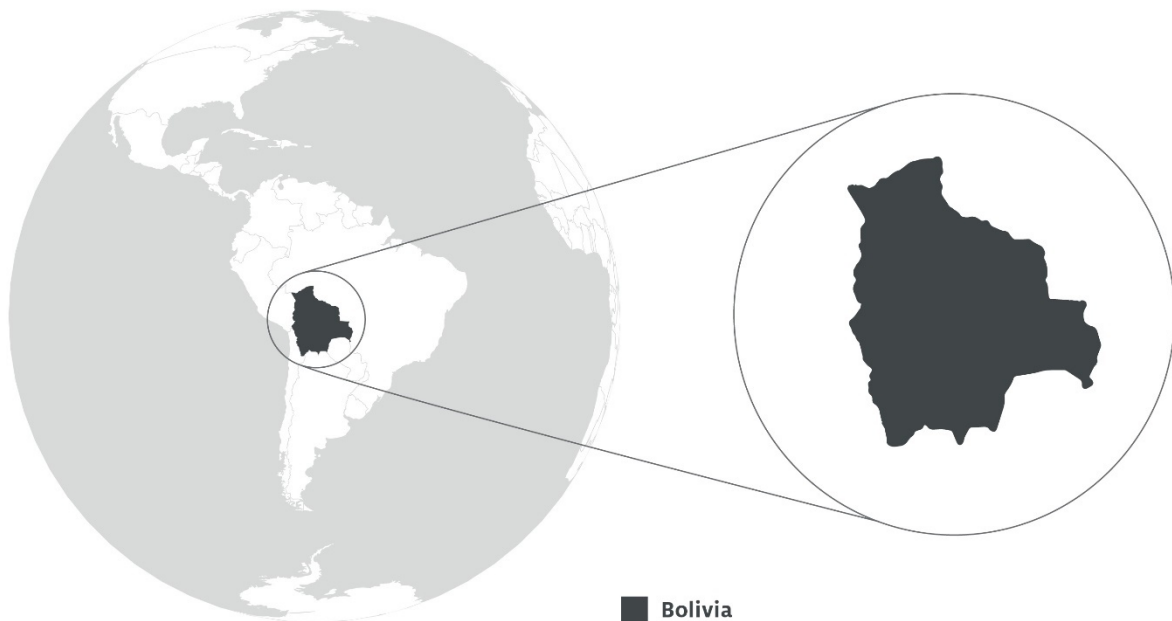




Indigenous Originary Peasant Autonomy in Bolivia

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1. Essential Facts and Figures

The plurinational state of Bolivia is a landlocked country, of 1,098,581 km² in area, located at the heart of South America. It borders Brazil, Paraguay, Peru, Chile and Argentina. The 2012 census registered a population of 10,027,254. As of July 2020, the population of Bolivia has been estimated to be 11,673,021 (World Population Review 2020). The 2012 census showed that 41% of Bolivia's population identified as belonging to an indigenous people. This was down from 62% in 2001 most likely due to a change in the wording of the census question (Tabra 2013).¹

Bolivia was defined for the first time as a *plurinational* state in its 2009 Constitution (*Constitución Política del Estado*, henceforth "CPE" or "the Constitution"), which recognized the existence of indigenous peoples and their right to self-government. An analysis of the 2001 census data suggests that indigenous peoples represented the majority in nearly half of the 327 municipalities that Bolivia had at that time (Plata and Cameron 2017, 20). According to Albó and Romero (2009, 22, cited in Plata and Cameron 2017, 20), there were 90 municipalities where over 60% of the population spoke an indigenous language, and identified themselves as a member of an indigenous people or nation. Article 5 of the Constitution implicitly recognized 36 indigenous peoples, by making their languages official languages of the state, in addition to Spanish. The largest ethnic self-identification, according to the 2012 census is Quechua with 1,281,116 people, followed by Aymara with 1,191,352. Quechua and Aymara are languages spoken mostly in the western highlands of Bolivia. The next three largest groups are Chiquitano with 87,885, Guaraní with 58,990 and Mojeño with 31,058 people (National Institute of Statistics 2013, 31). These three and the majority of the remaining 32 ethnic identifications given as options in the 2012 census are lowland indigenous peoples living mostly in the north and east of Bolivia.

Bolivia's 2009 Constitution was written following the election of Evo Morales as president in 2005, taking 54% of the vote, the first time that any candidate for the presidency had received a majority (Farthing and Kohl 2014, 14). Evo Morales self-identified as Bolivia's first indigenous president and attempted to implement an ambitious agenda to decolonize the state. Morales's government gave

* In the course of the common elaboration of the present article, Sections 1, 3, and 9 were written by Jonathan Alderman, Sections 2, 4, 5, and 7 by Alexandra Tomaselli, and Sections 6, 8, 10, and 11 by both.

¹ In 2001, the question asked whether someone considered themselves "to belong to one of the following indigenous peoples: Aymara – Quechua – Guaraní – Chiquitano – Mojeño", whereas in 2012 the question asked "As Bolivian, do you belong to a nation or indigenous originary peasant people or Afro-descendant?" (in Spanish: "Como boliviana o boliviano ¿pertenece a alguna nación o pueblo indígena originario campesino o afro boliviano?"; Centro de Estudios Jurídicos y Investigación Social 2013). If the respondent answered in the affirmative then they would be asked to which people or nation they belonged, and the census taker would tick an option from a list (which the census taker was not allowed to reveal to the respondent). As Fontana (2013) has argued, at a time when Bolivia was becoming an increasingly urban country, the implied association of indigenous (alongside the category of peasant) with a rural identity may have influenced many urban dwellers to disassociate themselves with this identity.

greater prominence to indigenous languages. In 2006, it was made a legal requirement for all state employees to study an indigenous language (Ibid., 103). In December 2010, the Bolivian parliament (*Asamblea Legislativa Plurinacional*) adopted the “Avelino Siñani and Elizardo Pérez” Education Law² which made it compulsory for all children to study an indigenous language and culture alongside Spanish and “Western”-style subjects (Ibid., 106). The goal of decolonizing education led to the establishment in 2008 of three indigenous universities teaching in Aymara, Quechua and Guarani (Ibid., 107–08). Morales’s government also sought to address illiteracy, particularly rural illiteracy, which had reached 40% and was twice as high as in urban areas. Between 2006 and 2009 over 500,000 people graduated from literacy classes in Spanish and indigenous languages (Ibid., 104–05).

One of Morales’s first significant economic measures as president was to “nationalize” Bolivian gas reserves, the second largest in South America, though as Farthing and Kohl (2014, 38) point out this action was “far from nationalization in the classic sense. No assets were expropriated, and no companies expelled.” Rather, firms were forced to renegotiate their contracts, and royalties were increased to 50% (Farthing and Kohl 2014, 39). Evo Morales’s government oversaw unprecedented growth and economic stability during his period in office (Ibid., 85). State control of the economy grew from 8% to 34% between 2005 and 2013, and revenues from hydrocarbons taxes were used to finance government projects (Ibid., 88). The country has one of the largest iron-ore deposits in the world as well as half of the world’s lithium deposits. The industrialization of lithium was one of the main objectives of Evo Morales (Agencia EFE 2019), and a contentious topic – because of the government’s plan to sell lithium concessions to a foreign company (Deutsche Welle 2019) – when Evo Morales was forced from office at the end of his third presidential term in November 2019.

Evo Morales’s inauguration as president took place at the historical site of Tiwanaku, close to Bolivia’s *de facto* capital of La Paz (the official capital is the city of Sucre) on 21 January 2006 (Farthing and Kohl 2014, 35). What are now the ruins of Tiwanaku were symbolically important as the center of an empire that dominated the eastern Andes from 400AD to 1000AD (Kolata 1993). The eastern Andes was later conquered by the Incas in the 15th century, less than 100 years before the arrival and subsequent colonization by the Spanish. The Incas transferred people (known as *mitimaes*) *en masse* from one part of the empire to another (Cieza de León 2018), bringing with them the language of the administration of the Inca empire, Quechua, which became dominant alongside the pre-Inca language of Aymara in Andean Bolivia until the present day. European colonization began after Francisco Pizarro led an armed invasion of the Inca Empire in 1532. The

² Law no. 070 of 20 December 2010 called the Law on Education “Avelino Siñani and Elizardo Pérez”. It was named after the founders of Warisata, a pioneering indigenous education project set up in the 1930s in rural Bolivia.

Spanish exploited Bolivia's tremendous mineral wealth, particularly the silver in the mines of Potosí (Cañete y Domínguez 2018) which were said to contain enough silver to build a bridge from that city to Spain, and forced indigenous populations to work in the mines. After Bolivia became independent from Spain in 1825, indigenous peoples continued to be exploited as the republican state sold off much of indigenous land in the late 19th century, forcing those living on the land to work for the new landowners on what were known as *haciendas*. Land reform enacted in 1953 saw land returned to those who worked it, as indigenous peoples were also given the right to vote for the first time following the National Revolution of 1952 (Kohl and Farthing 2014, 8). Following a period of military dictatorship between 1964 and 1982, Bolivia returned to democracy, and Bolivia's social movements began to propose greater rights for indigenous peoples, culminating finally in the redefinition of Bolivia as a plurinational state (Albó 2008).

2. Autonomy and State Structure

Article 1 of the 2009 Constitution (*Constitución Política del Estado*, henceforth "CPE" or "the Constitution") states that Bolivia is a unitary and social state of "plurinational communitarian law", that is free, independent, sovereign, democratic, intercultural, decentralized and with autonomies. Article 272 of the Constitution further specifies that "autonomy" implies that each autonomous entity directly elects its governing bodies, administers its own economic sources, and exercises its own legislative regulatory, fiscal, and executive powers over its territory and in accordance with the division of competences (powers)³ established by the Constitution (see below section 6). Article 6 (2) point 3 of the 2010 framework law on autonomies and decentralization (henceforth "the Autonomy Law")⁴ importantly clarifies that "autonomy" is classified as a "governmental qualification" of a territorial entity and that all the autonomous entities are hierarchically equal among each other. Point 2 of the same provision specifies that "administrative decentralization" refers to the "allocation of competences from a public body to another which is hierarchically inferior."

Article 269 CPE lists five types of administrative-territorial entities, which are: departments,⁵ provinces, municipalities, the "indigenous originary peasant territory" (*territorios indígena originario campesinos*, henceforth "TIOC"), and regions.

³ We use "competences" and "powers" as interchangeable terms.

⁴ Framework Law no. 031 of 19 July 2010 (*Ley Marco de Autonomías y Descentralización*) is called the Law on autonomies and decentralization "Andrés Ibáñez". It was named after a 19th century revolutionary who led a short-lived movement for social justice.

⁵ The Administrative Decentralization Law no. 1654 of 28 July 1995 aimed at devolving some powers and financial sources from the central level to the departments. However, the lack of efficient management, coordination with the other administrations, and of political responsibility by the prefectures caused the failure of this system (Del Campo 2007, 17–18).

The nine departments of Bolivia are, in alphabetical order, Beni, Chuquisaca, Cochabamba, La Paz, Oruro, Pando, Potosí, Santa Cruz, and Tarija.⁶ The country is further divided into 112 provinces and 342 municipalities. The territorial division into departments and provinces was established by the very first Bolivian Constitution of 1826, while municipalities were included in the Bolivian Constitution of 1839, although initially only in the departments' capitals.⁷ Prior to the adoption of the 1994 Law of Popular Participation,⁸ there were barely 20 municipalities in the country. More than 300 municipalities were established after this law entered into force (Assies 1999, 35). The first municipal elections were held in 1985 in accordance with the (first) Municipality Law of 1985 (Law No.696 of 1985), and since 1987 they were organized separately from the general elections every two years until 1995 (Del Campo 2007, 15, 37). The (second) Municipality Law was adopted in 1999.⁹ In 2015, there were 339 municipalities (National Electoral Body 2015) that have recently increased to 342 (Brújula Digital 2019).

The regions and the TIOCs are territorial entities that may be established by law over certain territories provided that some conditions are met. A region can be created within the borders of one of the nine Bolivian departments by merging provinces and municipalities if they are geographically adjacent to each other and they share cultural, linguistic, historical, economic, and ecosystem features. According to Article 280 (1) CPE, a "metropolitan" region may be constituted wherever the population of the suburban areas (*conurbaciones*) amounts to more than 500,000 people. A region may exercise those administrative-normative powers that the merging entities confer upon it,¹⁰ but it has no original legislative powers. Among the established regions as per effect of the 2009 Constitution there are: Gran Chaco-Yacuiba, Gran Chaco-Caraparí, and Gran Chaco-Villamontes in the Tarija department (National Electoral Court 2010, 77–78). The metropolitan region of Kanata was established in 2014 (Law no. 533) in the Cochabamba department.

The TIOCs refer to the (former) "originary community territories" (*tierras comunitarias de origen*, henceforth TCOs), which were first recognized by Article 171(1) of the reformed 1967 Constitution (as amended in 1994), and further regulated by the 1996 Law on the National Agrarian Reform

⁶ Chuquisaca, Cochabamba, La Paz, Oruro, Potosí and Santa Cruz were established by the very first Bolivian Constitution of 1826. Tarija was included in the 1831 Constitution, Beni in the 1843 Constitution, while Pando's deputies appear for the first time in the 1938 Constitution. The texts of all Bolivian Constitutions are available online at http://www.cervantesvirtual.com/portales/constituciones_hispanoamericanas/bolivia_constituciones (accessed on 24 September 2020).

⁷ Municipalities were not mentioned in the two following Constitutions of 1843 and 1851 but were more properly recognized in the 1861 Constitution. The 1967 Constitution, which was reformed in 1994, included the departments, the provinces (as well as sections of provinces and cantons), and the municipalities.

⁸ Law no. 1551 of 20 April 1994 (*Ley de la Participación Popular*).

⁹ Law no. 2028 of 28 October 1999 (*Ley de Municipalidades*).

¹⁰ Articles 281 and 301 CPE, and Article 41 (2) of the Autonomy Law.

Service (henceforth “the INRA Law”).¹¹ According to Article 41 (1) point 5 of the INRA Law, the TCOs are geographical areas that form the habitat of and have traditionally been accessed by indigenous originary peoples and communities, which have maintained and developed their own forms of economic, social and cultural organization on such lands. In addition, the TCOs “[...] are *inalienable, indivisible, irreversible, collective*, composed of communities or associations, *non-forfeitable and imprescriptible*” [emphasis added].¹² And, a TCO “*cannot be reversed, alienated, burdened, seized or acquired by prescription*. The distribution and redistribution for individual and family use within the [TCOs] shall be governed by the community rules, according to their rules and customs” [emphasis added].¹³ Notwithstanding this, 58.2% of the TCOs in the Amazonian area are affected by territorial discontinuity.¹⁴ The TCOs are to be converted into TIOCs according to the 2009 Constitution.¹⁵

The Constitution grants autonomous status to the nine departments (Article 277 CPE), the created regions (Article 280 CPE), all the municipalities (Article 283 CPE), and the “indigenous originary peasant autonomies” (*autonomías indígena originaria campesinas* henceforth AIOCs; Article 289 CPE) that are to be established (or better say, converted). Hence, in principle, all these autonomies enjoy hierarchical equality before each other; they are provided with legislative, regulatory, fiscal, and executive powers; administer their own economic resources; and the members of their governing bodies are to be elected by those citizens who reside within the respective autonomous entities. Notwithstanding their status of administrative-territorial entity, provinces cannot be autonomous. However, two types of administrative-territorial entities may become autonomous, i.e., regions and the AIOCs, if they are created or converted, respectively. The former, as mentioned above, may be established by merging provinces and municipalities. The latter may be created over a TCO or TIOC, a municipality, or a region itself (see further below in section 4).

3. Establishment and Implementation of Autonomy

3.1. The path to indigenous autonomy and the plurinational state

The legal establishment of the rights of the indigenous peoples in Bolivia’s 2009 Constitution (*Constitución Política del Estado*, henceforth “CPE” or “the Constitution”) and the subsequent

¹¹ Law no. 1715 of 18 October 1996 is known as the “INRA Law”. This short name comes from the abbreviation of the National Institute Institution of Agrarian Reform (*Instituto Nacional de Reforma Agraria – INRA*) which was established by this law.

¹² Translation by Alexandra Tomaselli of Article 41 (1) point 5 of the INRA Law.

¹³ Translation by Alexandra Tomaselli of Article 3 (3) of the INRA Law.

¹⁴ For a critical analysis of the TCOs and the problems of territorial discontinuity, see Colque and Chumacero (2011).

¹⁵ See the Transitory Disposition 7 and Articles 269 (1) and 394 CPE. The Supreme Decree (*Decreto Supremo*) no. 727 of 6 December 2010 ruled the conversion process from TCOs to TIOCs. However, not all the TCOs have been eventually converted into TIOCs yet.

establishment (thus far) of three indigenous originary peasant autonomies (*autonomías indígena originaria campesinas*, henceforth AIOCs)¹⁶ is the culmination both of hundreds of years of struggle by Bolivia's indigenous peoples against colonial and quasi-colonial governments, and of struggles by rural organizations to reverse the assimilationist model of the state's relationship with its indigenous peoples that was reinforced following Bolivia's 1952 revolution. In the Andes, rural people have traditionally lived in kin-based communities known as *ayllus*, in which land is held in common and positions of authority are occupied on a rotating basis by all married men in the community (changing year to year). Colonial authorities made attempts to reshape dispersed rural indigenous people, by forcibly relocating them to administrative centers known as *reducciones* (following the Toledan census in 1575), where they would be more visible to the colonial authorities. However, under Spanish colonial rule, the autonomy of *ayllus* was also implicitly recognized by the colonial regime in exchange for tribute paid to the Crown. Following Bolivia's independence from Spain in 1825, the autonomy and collective property of *ayllus* has been challenged at various points. Most significantly, the decrees of president Melgarejo in 1866 dissolving *ayllus* and declaring individual community members as owners of their land (though this was overturned by the following government), and the 1874 Disentailment Law (*Ley de Ex-Vinculación*), which declared the state to be owner of all land and divided *ayllu* land into properties which could be sold off. While many *ayllus* successfully resisted these laws, often through purchasing their own ancestral territory, in other cases *ayllus* were sold off to European descendants, and those resident on the land were allowed to stay there only in return for working the land for the new landowner, or else the landowner brought in new outsiders to replace them (Antezana 2011).

Bolivia's 1953 agrarian reform (following Bolivia's 1952 revolution) redistributed land back to those who worked it through individual property deeds. Rural Bolivians were labelled peasants, rather than (the pejorative) "Indians" and, following the agrarian reform, the communities that used to be part of large estates became peasant unions. These rural communities were linked to Bolivia's post-revolutionary government through a nationwide confederation of peasant unions, the National Confederation of Peasant Workers of Bolivia (*Confederación Nacional de Trabajadores Campesinos de Bolivia*, henceforth CNTCB). However, from the 1960s and 1970s the class-based ideology of the CNTCB was challenged in the West of Bolivia, particularly the department of La Paz, from within the peasant union, by a movement known as *Kataristas* (that used the leader of a 1779 rebellion, Tupaj Katari, as a figurehead), who drew heavily on their ethnic Aymara identity. When the CNTCB was refounded in 1979 as the Unified Syndical Confederation of Peasant Workers of Bolivia

¹⁶ As of the end of 2019, the AIOCs Charagua, Raqaypampa and Uru Chipaya have established their own governments. A fourth AIOC (i.e., Salinas de Garci Mendoza) has approved its autonomous statute in June 2019 and at the end of 2019 was in the process to establish its own government (García Orellana 2019, 105–06).

(*Confederación Sindical Única de Trabajadores Campesinos de Bolivia*, henceforth CSUTCB), in its founding statement it emphasized that the Aymaras, Quechuas and other indigenous peoples were the true owners of land in Bolivia, and desired to reconquer their liberty to become subjects, rather than objects of their own history (Schavelzon 2012, 91). The delegates at the second congress of the CSUTCB in 1983 put forward a proposal for the creation of a plurinational state (Albó 2008, 40). By the early to mid-1990s the notion that Bolivia contained many nations was actively being used in discourse by politicians even at the highest levels of government (Ticona, Rojas and Albó 1995, 219; Schavelzon 2012, 90). The 1994 constitutional reform defined Bolivia as “free, independent, sovereign, multi-ethnic and pluri-cultural” (Lee Van Cott 2000, 43). The 1994 Law of Popular Participation decentralized power and financial resources to local government and made it possible for indigenous people to take control of municipal governments. These reforms were a direct response to the “March for Territory and Dignity” (*Marcha por el Territorio y la Dignidad*) by indigenous peoples from the lowlands of Bolivia, which arrived in La Paz in 1990. The Aymaras of highlands joined them for the final part of their journey into the city itself, which reminded the residents of the siege of La Paz by Tupaj Katari in 1781 (Schavelzon 2012, 117–19; Canessa 2000, 127–28). The marchers demanded recognition of their territorial autonomy and their own authorities, but as part of the Bolivian nation-state (Yashar 2005, 212). The march was significant in creating greater connections between highland and lowland indigenous organizations (such as the CSUTCB) and the lowland organization Indigenous Confederation of Eastern Bolivia (*Confederación Indígena del Oriente Boliviano*, henceforth CIDOB), which would eventually result, in 2004, in the Unity Pact (*Pacto de Unidad*) that called for the constituent assembly to write a new “plurinational” Constitution.

A third nationwide peasant and indigenous organization, alongside the CSUTCB and CIDOB, to form part of the Unity Pact was the National Council of Ayllus and Markas of Qullasuyu (*Consejo Nacional de Ayllus y Markas del Qullasuyu*, henceforth CONAMAQ), the umbrella organization of *ayllus* and *markas*.¹⁷ Following the influence of the *Katarista* movement and the refounding of a new nationwide confederation of peasant unions with a greater emphasis on ethnic identity, many peasant unions in western Bolivia went further and from the mid-1990s to mid-2000s reformed as *ayllus*. Following the first reconstitutions of *ayllus* in 1995, CONAMAQ was founded in 1997, with the ultimate aim of reconstituting “Qullasuyu” – this was the name of the southern quarter of the Inca empire (Schilling Vacaflor 2008; Chuquimia Escobar, Chambi Mayta and Claros Aramayo 2010, 35).

¹⁷ A *marka* is a local grouping of *ayllus*, under the authority of one authority figure known as a *mallku* (Alderman 2019, 56).

The Unity Pact between the three organizations (i.e., CSUTCB, CIDOB, and CONAMAQ) in 2004 followed another march by lowland organizations to the city of La Paz in 2002, culminating in demands from both lowland and highland organizations for the convocation of a constituent assembly to write a new Constitution. A point of contention between the three organizations was in finding a common term to identify themselves. They agreed upon “nations and indigenous originary peasant peoples” (*naciones y pueblos indígena originario campesinos*) to obscure and overcome differences between lowlanders who identified as indigenous, highlanders from *ayllus* who preferred the term originary (*originario*) due to its origin in the colonial census and tax regime, and those belonging to the CSUTCB who identified as both indigenous/originary and peasant (Schavelzon 2012, 93–97).

In December 2005, Evo Morales was elected as Bolivia’s president, self-identifying as the first indigenous president in the country’s history. One of the first significant acts of his government was the convocation of a constituent assembly,¹⁸ which sat from 2006 to 2007 and drafted a Constitution explicitly recognizing the historic rights of “nations and indigenous originary peasant peoples”. Article 2 specifically stipulates the right to self-determination, consisting in “the right to autonomy, self-government, their own culture, and the recognition of their institutions and the consolidation of their territorial entities”. Article 289 of the Constitution providing for the creation of AIOCs is considered a key provision for the refounding of Bolivia officially as a plurinational state. It has been a common refrain since the adoption of the 2009 Constitution that without the indigenous autonomies there would be no plurinational state (Exeni Rodríguez 2015, 67; Exeni Rodríguez 2018, 109; Plata and Cameron 2017, 20; Portugal Mollinedo 2018, 69).

3.2. The formation of the first tranche of AIOCs

The complex requirements and procedure for the conversion of municipalities, indigenous originary peasant territories (TIOCs) and regions into AIOCs is examined in detail in section 4 below. However, it is worth mentioning here the basic steps of the procedure: (1) organization of a referendum on the conversion into an AIOC; (2) if the referendum is passed, the establishment of a deliberative council which is tasked with (3) drafting and approving an autonomy statute; (4) the approved statute is referred to the Plurinational Constitutional Court (*Tribunal Constitucional Plurinacional*, henceforth TCP) for a constitutionality check. Until 2019, the 2010 Autonomy Law stipulated an additional fifth step: a second referendum for the approval of the autonomy statute by the local population. However, this requirement was abrogated in July 2019 (see section 4.3 below).

¹⁸ The constituent assembly was established by Law no. 3664 of 6 March 2006.

As of 2019, only three fully-converted and operative AIOCs are currently up and running, namely the municipalities of Charagua and Uru Chipaya, and the former TIOC of Raqaypampa (García Orellana 2019, 105–06). They had pursued a long conversion process. In December 2009, after receiving approval from the then Ministry of Autonomies that they satisfied the requirements (see section 4.1. below),¹⁹ 12 municipalities put to a referendum the question “Are you in favor of your municipality adopting the condition of AIOC in accordance with the principles established in the Constitution?”. In 11 out of the 12 municipalities the referendum was passed, and a deliberative council was tasked to write an autonomy statute, which then had to be approved by the respective councils themselves, before being sent to the TCP to check their constitutionality. By 2019, six of these 11 municipalities have had their autonomy statutes approved by the TCP and, as required by the Autonomy Law before the 2019 amendment, had to put their statutes to approbatory referendums. The six municipalities are: Uru Chipaya, San Pedro de Totora, Pampa Aullagas in the department of Oruro; Huacaya and Mojocoya in the department of Chuquisaca; Charagua in the department of Santa Cruz. On 20 September 2015, the autonomy statute was approved by 53.25% in Charagua and rejected by 70.04% in San Pedro de Totora. On 20 November 2016, the autonomy statute was approved in Uru Chipaya by 77.39% and rejected in Mojocoya by 59.36%. Finally, on 9 July 2017, the autonomy statute was rejected in Huacaya by 58.6% (Plata and Cameron 2017, 28). No referendum for the approval of the autonomy statute had been held in Pampa Aullagas before the 2019 amendment of the Autonomy Law. Due to internal conflicts (see section 9 below), in the other five municipalities where the initial referendum on the conversion into an AIOC passed, the respective processes have failed to advance towards the end of the procedure (Plata and Cameron 2017).

To date, 13 TIOCs have begun the process of conversion to AIOC status. However, only one TIOC, Raqaypampa in the department of Cochabamba, has successfully completed the process. In an approbatory referendum in Raqaypampa on 20 November 2016 the “Yes” vote won by 91.78%.

By 2018, nine more municipalities and TIOCs had begun conversion processes, three of which have had the constitutionality of their statutes approved by the TCP (García Orellana 2018, 140).

4. Legal Basis of Autonomy

The legal bases of the autonomy in Bolivia are the above-mentioned 2009 Constitution (*Constitución Política del Estado*, henceforth “CPE” or “the Constitution”) and the 2010 Autonomy Law (as amended in 2019). Let us remember that one of the four potential autonomous layers in Bolivia is

¹⁹ In 2009, 18 municipalities solicited approval from the Ministry of Autonomies to begin the conversion process (Exeni Rodríguez 2018, 114–15).

the indigenous originary peasant autonomy (*autonomía indígena originaria campesina*, henceforth AIOC). The AIOCs, as the “regions”, are not pre-defined administrative-territorial entities of Bolivia. According to Article 44 of the Autonomy Law, the territorial units that may opt to convert into an AIOC are the following: municipalities, indigenous originary peasant territories (*territorios indígena originario campesinos*, henceforth TIOCs) and regions (if created). No AIOCs can trespass departmental borders.

4.1. The prerequisites of the conversion of first 11 municipalities into AIOCs

The Third Final Provision of the 2009 electoral law and a subsequent presidential decree²⁰ stipulate the procedure for conversion into AIOCs. On 6 December 2009, 19 municipalities voted to convert into municipality-based AIOCs. Prior to being allowed to hold a referendum that would start their conversion procedure, they had to fulfil the following requirements: (1) a certificate issued by the then Ministry of Autonomies;²¹ and (2) a municipal decree calling for the referendum approved by the municipal council with a qualified two-thirds majority. The ministerial certificate concerns three conditions: (a) the municipal territory corresponds to the ancestral land inhabited by the indigenous peoples currently living on it; (b) the existence of these indigenous peoples prior to the colonization of Bolivia; and (c) the indigenous peoples of the municipality share certain common features – i.e., language, cultural identity, historical tradition, territoriality, worldview (*cosmovisión*) – and have their own juridical, political, social, and economic organization or institutions.²² These requirements partially mirror the provisions of Article 290 of the 2009 Constitution.²³ Needless to say, it was very arduous to provide evidence for fulfilling these requisites, particularly with regard to the ancestrally inhabited land. This was further aggravated by the fact that only 30 out of the (then) 339 municipalities in Bolivia (i.e., approx. 9% of all municipalities) had settled territorial boundaries (Vargas Lima 2013). Moreover, the population of a municipality, a region or a TIOC is not necessarily exclusively indigenous but may also include non-indigenous peasants.

Eventually, the Bolivian National Electoral Court (*Corte Nacional Electoral del Estado Plurinacional de Bolivia*) rejected the requests of seven municipalities²⁴ due to delays in submitting the needed documentation or other missing requirements – e.g., the municipal decree calling for the referendum was adopted with less than two-thirds majority (Ministry of Autonomies 2009, 4–5;

²⁰ Transitory Electoral Law no. 4021 of 14 April 2009 and the Supreme Decree (*Decreto Supremo*) no. 231 of 2 August 2009.

²¹ In 2017, the Ministry of Autonomies was replaced by a Vice-Ministry of Autonomies established under Ministry of the Presidency (see section 8).

²² Article 5 (1) of Supreme Decree no. 231 of 2 August 2009.

²³ In addition to the evidence of the ancestrally inhabited land, Article 290 CPE requires a proof of willingness to convert into an AIOC via consultation (e.g., referendum), and the (future) application of customary norms and institutions.

²⁴ Inquisivi in the department of La Paz; Corque, Santiago de Andamarca, Santiago de Huari and Turco in the department of Oruro; Gutiérrez and Lagunillas in the department of Santa Cruz.

Plata 2009, 250). In December 2009, the referendum to start the procedure for conversion into AIOCs was successful in 11 out of the remaining 12 municipalities. The “no” vote prevailed in Carahuara de Carangas, in the department of Oruro, probably due to fears related to changing the (rather successful, and long-awaited) participatory system provided by the 1994 Law of Popular Participation – a fear that was shared among many other indigenous peoples (Tamburini 2010, 201). The 11 municipalities in which the majority of voters opted to create an AIOC were: Jesús de Machaca and Charazani (department of La Paz); Mojocoya, Huacaya and Tarabuco (department of Chuquisaca); Salinas de Garci de Mendoza, Uru Chipaya, Pampa Aullagas and San Pedro de Totora (department of Oruro); Chayanta (department of Potosí); and Charagua (department of Santa Cruz).²⁵

These municipalities had to wait until the Autonomy Law was adopted in July 2010 to bring forward their conversion procedure. Neither the elaboration nor the adoption of this law was as fast or smooth as originally anticipated. The lawmakers prepared 40 unofficial drafts of the Autonomy Law prior to its adoption. Moreover, the participants in the “Seventh Great Indigenous March for territory, autonomies, and the rights of indigenous peoples” (held in June 2010) protested against various provisions of the draft law under discussion at that time (Tamburini 2011, 176–77).

4.2. The requirements for conversion into an AIOC after the adoption of the Autonomy Law

The Autonomy Law introduced partially different requirements for a municipality, a TIOC, or a region (when created) to begin the conversion procedure into an AIOC. Hence, in addition to the requirements of the Article 290 CPE (see footnote 23), Articles 56–58 of the Autonomy Law specify additional conditions. The evidence of ancestrally inhabited land applies to all the three territorial entities, i.e., municipalities, TIOCs, and the (created) regions. This means that all of them have to provide proof that the claiming (indigenous) people has been living on the specific territory since time immemorial. The (created) regions that wish to convert into an AIOC have also to fulfil a requirement of territorial continuity. In addition to the two conditions mentioned above (i.e., ancestral territory and territorial continuity), the TIOCs must meet two more requirements: the so-called governmental trusteeship (*viabilidad gubernativa*), and a specific numerical quota of population (*base poblacional*). The former may be a ministerial decree, resolution, or certificate which would be issued if two further conditions are met: evidence of the existence, representation, and effective implementation of an organizational structure of the indigenous peoples and a territorial plan including institutional and financial strategies. The population’s quota is a numerical

²⁵ For an overview on developments (or lack thereof) regarding these first 11 municipality-based AIOCs, see Cameron and Tockman (2014), Tomaselli (2015), Tomaselli (2016, 359–77), Plata and Cameron (2017), and Alderman (2019).

condition that refers to a minimum number of inhabitants, which are 10,000 people for the highlands – reducible to 4,000 in exceptional cases – and 1,000 for the lowlands.

These requirements have sparked much confusion and frustration. For instance, territorial continuity is extremely difficult to prove, and this is particularly hard in the lowlands, where 58.2% of the (still) “originary community territory” (TCOs) or (new) TIOCs are affected by territorial discontinuity (Colque and Chumacero 2011, 108). Moreover, the criterion of the numerical quota was considered applicable also to municipalities (Fundación Tierra, 2012b) although it should not be.

4.3. The conversion procedure

The conversion procedure consists of four steps,²⁶ as follows:

- (1) Organization of a referendum or consultation on the conversion into an AIOC;²⁷
- (2) If the “Yes” vote wins, the population of the municipality must establish a deliberative council,²⁸ which is charged with
- (3) Drafting an autonomy statute and approving it with a qualified two-thirds majority vote. The statute shall be drafted in accordance with indigenous rules and procedures;²⁹
- (4) The adopted statute is referred to the Plurinational Constitutional Court for a constitutionality check.³⁰

If consistent with the CPE, the AIOC will come into effect after the establishment of its governing bodies. This indigenous customary law should rule over the functioning of the AIOC governing body once it is established and working.³¹ This applies also to those municipalities that have a mixed population.

5. Autonomous Institutions

The 2009 Constitution (*Constitución Política del Estado*, henceforth “CPE” or “the Constitution”) guarantees that the AIOC shall be governed by its own indigenous norms, institutions, authorities and procedures in accordance with its powers, the Constitution and the law, and it shall be ruled by

²⁶ Unlike the prerequisites for the first referendum to convert into an AIOC, the conversion procedure itself is common to both the first 11 AIOCs and the new ones.

²⁷ Articles 293 (1), 294 (2) and 295 (2) CPE, as well as Article 50 of the Autonomy Law.

²⁸ Article 53 of the Autonomy Law.

²⁹ Article 292 CPE.

³⁰ Article 275 CPE and Article 54 of the Autonomy Law. Article 54 of the Autonomy Law has been amended by Law no. 1198 of 14 July 2019. In its original version, Article 54 required a second referendum for the approval of the autonomy statute by the local population. The 2019 amendment is a relevant development since in some cases (e.g., municipality of San Pedro de Totora in the department of Oruro), the second referendum on the autonomy statute failed, and the deliberative council had to begin a new statute drafting procedure (Tockman 2017).

³¹ Article 296 CPE and Article 55 of the Autonomy Law.

its own adopted autonomy statute (once it has been validated by the Plurinational Constitutional Court).³² The 2010 Autonomy Law fine-tunes the constitutional provisions and its Article 45 further specifies that the AIOC government is to be formed and administered by the autonomy statute, norms, institutions, and forms of organizations in the frame of its legislative, deliberative, fiscal, regulatory, and executive powers, within its territorial jurisdiction in accordance with the Constitution. Therefore, the governance structures and procedures vary according to AIOCs' autonomy statutes. For instance, the first AIOC statutes that were approved (that is, those of Charagua, Mojocoya, San Pedro de Totora, Pampa Aullagas, and Uru Chipaya) rule that the deliberative assembly (and not a local "government") is the highest level of political authority that exercise both legislative and executive powers, and, apart from Mojocoya, such assembly serves also as the highest level for local (indigenous, customary) justice (Tockman, Cameron and Plata 2015, 46).

Finally, it is worth noting that according to Article 48 of the Autonomy Law, the legislative, deliberative, fiscal, regulatory and executive powers of the AIOCs may be expressed orally or in writing provided that AIOCs' authorities comply with a record keeping requirement. However, AIOCs' authorities shall produce written documentation whenever the law requires written evidence of their activity.

6. Autonomous Powers

According to Article 297 of the 2009 Constitution (*Constitución Política del Estado*, henceforth "CPE" or "the Constitution"), there are four types of competences: prerogative (*competencias privativas*), exclusive (*competencias exclusivas*), concurrent (*competencias concurrentes*) and shared (*competencias compartidas*).³³

The Constitution specifies the division of competences among the central and autonomous levels in Articles 299–304. The AIOCs are given 23 exclusive powers,³⁴ which would absorb the competences

³² Articles 289–296 CPE.

³³ Subject matters that fall under *competencias privativas* are reserved to the state and its legislative, regulatory and executive authority over these subject matters cannot be transferred or delegated. When it comes to *competencias exclusivas*, a level of government has exclusive legislative authority of a certain subject matter, but it may transfer its regulatory and executive authority. Finally, the *competencias concurrentes* and *compartidas* are those powers that autonomous units share with the State. The former covers subject matters in relation to which the autonomous units may apply or execute state laws. The latter includes those matters on which the autonomous units may enact further regulations to implement a state framework law.

³⁴ Article 304 (1) CPE lists *competencias exclusivas* of AIOCs such as: definition and management of their own forms of economic, social, political, organizational and cultural development; management and administration of renewable natural resources; elaboration of plans of land regulation and land use; exercise of indigenous jurisdiction for the application of justice and the resolution of conflict through their own norms and procedures; housing and town planning; maintenance and administration of local and communal roads, tourism policies.

of the municipality or the region that chooses to convert.³⁵ In addition, the AIOCs share other powers with the state. They may apply or execute state acts (*competencias concurrentes*) in relation to 10 subject matters, and in the case of four other subject matters, they may enact further regulations to implement a state framework law (*competencias compartidas*).³⁶

The fact that the Constitution provides AIOCs with a relatively large number of exclusive competences is significant in terms of ensuring the exercise of self-government by the indigenous autonomy. However, on several key subject matters (e.g., health, education, environmental), the AIOCs have only implementation powers. This denies AIOCs control over some crucial issues for indigenous peoples and therefore substantially limits their overall authority.

The tension between the “plurinational state” and the (neo)extractivist basis of the economy of the state means that the two forms of government will inevitably come into conflict with regards to the management of natural resources. Articles 349 and 359 of the Constitution clearly establish state control over all the natural resources and recognize the rights to prior consultation of indigenous peoples over work within their territory, but not veto power (Plata and Cameron 2017, 32).

7. Financial Arrangements

The 2009 Constitution (*Constitución Política del Estado*, henceforth “CPE” or “the Constitution”) clarifies that the status of autonomy implies also the administration of the own resources, including fiscal powers and stipulates that the financial system of autonomies shall be regulated by ad hoc legislation.³⁷ The 2010 framework law on autonomies and decentralization (henceforth “the Autonomy Law”) lists the financial resources for each specific autonomous unit. According to Article 106 of the Autonomy Law, the financial resources of AIOCs include their own taxes, other fees, patents and special contributions, revenues from sale of goods and services, inheritances and donations, internal or external loans, transfers from departmental royalties for exploitation of natural resources or inter-governmental transfers related to delegation of powers, and a share of revenues from the direct tax on hydrocarbons. A 2011 law on the classification and the definition of taxes and revenues of the Bolivian autonomous governments³⁸ prescribes a closed list of taxes that the various autonomous units may impose. This regulation prevented municipalities from

³⁵ Article 303 (1) and (2) CPE. Article 303 (2) specifies that if a region converts into an AIOC, the latter assume those regional powers that would be expressly transferred or delegated to it.

³⁶ Article 304 (2) and (3) CPE lists *competencias compartidas* of AIOCs (e.g., international exchanges within the framework of the foreign policy of the state; participation and control in the use of grains) and their *competencias concurrentes* (e.g., organization, planning and execution of health policy in their jurisdiction; organization, planning and execution of plans, programs and projects related to education; conservation of forestry resources, biodiversity and the environment; promotion and stimulation of agriculture and raising of livestock).

³⁷ Articles 271 and 272 CPE.

³⁸ Law no. 154 of 14 July 2011 (*Ley de clasificación y definición de impuestos y de regulación para la creación y/o modificación de impuestos de dominio de los gobiernos autónomos*).

levying other types of taxes and fueled malcontent particularly among mayors of small municipalities, which preferred the decentralized financial system of the 1994 Law of Popular Participation (Bustillos Zamorano 2011). As mentioned above (see sections 2 and 3.1), this 1994 law (which was abrogated by the 2010 Autonomy Law) created the conditions for the establishment of an increasing number of municipalities in Bolivia. Moreover, Articles 14 and 20 of the Law of Popular Participation stipulated that municipalities receive 20% of the government's yearly revenues and granted them a wider range of responsibilities (Del Campo 2007, 16–18).

8. Intergovernmental Relations

Since the adoption of the 2010 framework law on autonomies and decentralization (henceforth “the Autonomy Law”) until its 2017 amendment,³⁹ the central government included a Ministry of Autonomies. However, the 2017 law abolished the Ministry of Autonomies and created a Vice-Ministry of Autonomies under the Ministry of the Presidency.

According to Article 121 of the Autonomy Law, the relationships among the different layers of autonomy and the central level are coordinated by three bodies, namely: the National Autonomies Council (*Consejo Nacional de Autonomías*); the State Autonomies Service (*Servicio Estatal de Autonomías*); and the State Integral Planning System (*Sistema de Planificación Integral del Estado*). The National Autonomies Council has a political function and is composed of representatives of both the state and the local autonomies, namely: the Bolivian president (who chairs it) and the vice-president (who may chair if the president is absent); four ministers⁴⁰ and the vice-minister of autonomies; the governors of the nine Bolivian departments; five representatives of the Federation of Municipal Associations; five representatives the AIOCs; and one representative of regional autonomies.⁴¹ Meetings of this consultative body take place between two and four times per year. This organ functions according to its own rules of procedure adopted by a qualified majority of two-thirds.⁴²

The State Autonomies Service is a decentralized public entity headed by an executive director and functioning under the supervision of the Ministry of the Presidency, and in coordination with the Vice-Ministry of Autonomies.⁴³ The overall goal of the State Autonomies Service is to provide the

³⁹ Law no. 924 of 29 March 2017 (*Ley de modificación a la Ley Marco de Autonomías y Descentralización “Andrés Ibáñez” no. 031 de 19 de julio de 2010*).

⁴⁰ The four ministries represented are: Ministry of the Presidency, Ministry of Development Planning, Ministry of Economy and Public Finances, and Ministry of Justice and Institutional Transparency.

⁴¹ Article 123 of the Autonomy Law as amended by Law no. 705 of 5 June 2015 (*Ley de modificación de la Ley Marco de Autonomías y Descentralización “Andrés Ibáñez” no. 031 de 19 de Julio de 2010*) and the abovementioned Law no. 924 of 29 March 2017.

⁴² Article 124 of the Autonomy Law as amended by the abovementioned Law no. 705 of 5 June 2015.

⁴³ Articles 125 and 127 of the Autonomy Law as amended by Law no. 924 of 29 March 2017.

autonomous entities with technical and administrative support during the decentralization process. Moreover, it may serve as a conflict resolution body in charge solving potential conflicts of competences between the central level and autonomous entities as well as among the different autonomous units before such conflicts are brought before the Plurinational Constitutional Court. This body is also in charge of establishing the criteria in case of transfer or delegation of powers to and among autonomous levels.⁴⁴ In addition, it plays an advisory and information role –and serves as a central register – with regard to fiscal attributions and intergovernmental agreements among the autonomous levels, legislative initiatives, and the overall decentralization process.⁴⁵

The State Integral Planning System brings together representatives of public administrations from all territorial levels of the state. It provides a forum to debate and propose participatory and bottom-up strategies.⁴⁶

Article 132 of the Autonomy Law also provides for the establishment of sectorial coordination councils (*consejos de coordinación sectorial*) to ensure the consultation and coordination between central and autonomous governments on specific subjects matters (e.g., labor policies, education). These bodies are composed of the minister in charge of the respective matter and the corresponding competent authorities of the autonomous governments.

In conclusion, the coordination system of the four autonomy layers is rather complex and the key body is the State Autonomies Service. Finally, it is worth noting that in July 2010, those municipalities that started the process of conversion into AIOCs established a coordination body (*Coordinadora Nacional de Autonomías Indígena Originaria Campesinas*, henceforth CONAIOC) with the aim to support the conversion process and strengthen self-government (Fundación Tierra 2012a; Plata and Cameron 2017, 36). The leaders of CONAIOC come from municipalities that are in the process of conversion. According to Plata and Cameron (2017, 36) the CONAIOC's leadership had been totally focused on pushing forward the existing conversion processes and had not been actively promoting AIOC conversion more widely to other municipalities.

9. Inter-group Relations within the Autonomous Entity

As Cameron (2013) has pointed out, the legal framework for indigenous autonomies in Bolivia presupposes a certain cultural hegemony within the municipalities that choose to undergo the conversion to AIOCs. Both the 2009 Constitution (*Constitución Política del Estado*, henceforth “CPE” or “the Constitution”) and the 2010 framework law on autonomies and decentralization (henceforth

⁴⁴ Articles 69, 126 and 129 (1) points 1 and 2 of the Autonomy Law as amended by Law no. 1198 of 14 July 2019 (*Ley de modificación a la Ley 031 de 19 de Julio de 2010, Marco de Autonomías y Descentralización “Andrés Ibáñez”*).

⁴⁵ Article 129 (2)–(4) of the Autonomy Law as amended by the abovementioned Law no. 1198 of 14 July 2019.

⁴⁶ Article 130 (1) of the Autonomy Law.

“the Autonomy Law”) emphasize indigenous peoples as sharing a territory, culture, history, language and their own juridical, political, social and economic organizations or institutions.⁴⁷

However, the process of the construction of indigenous autonomies in the municipalities that have chosen to undergo the conversion has been fraught with difficulties precisely because of the heterogeneity of their populations, their divergent identities and political interests. Article 53 of the Autonomy Law establishes that autonomy statutes must be approved by two-thirds of the total members of the particular deliberative council (Exeni Rodríguez 2015, 28), meaning that in order for the process to proceed to the final confirmatory referendum (a requirement until 2019, see section 4.3), consensus must be achieved internally.

One source of tension has thus been the presence of non-indigenous actors within the municipalities in question who see the indigenous autonomy as a threat to their own land and livelihood. In the lowland municipality of Charagua, an immense territory 74,000 km², which according to the 2012 census has a population of 32,164 inhabitants, there are four Guaraní *capitanías* (indigenous Guaraní territories) and two urban centers, and the population is largely made up of Bolivians of European descent, indigenous Guaraní, and Quechua and Aymara-speaking Andean settlers (Plata 2015, 196–97). The population of the four Guaraní *capitanías*, representing 63.1% of the electorate, voted in favor of the AIOC, while the local Bolivians of European descent and Andean migrants largely voted against (Ibid., 204). Despite the Guaraní running in local elections against Evo Morales’s Movement for Socialism (*Movimiento al Socialismo*, henceforth MAS) who was largely supported by the Quechua and Aymara speakers, for local elites (of European descent), the AIOC represented a project of Morales’s party to stall their own favored project of departmental autonomy (Ibid., 216). The presence of various actors with different interests within Charagua complicated the formation of its deliberative council. Although its members were elected between April and May 2010, it took until November of that year for the council to be officially inaugurated. Local opposition to the AIOC project campaigned against it on the basis that it would threaten the right to universal suffrage (Ibid., 210) and disagreed with the Guaraní on the best form of government once the autonomy was constitutionalized. While, on the one hand, the Guaraní saw the AIOC as an extension of their own indigenous form of governance based on consensus, the European descendants in urban areas wanted a representative government in the model of the Republican state they had been used to, founded on a division of powers (García Orellana 2018, 143–44). The Guaraní autonomy statute was sent to the Plurinational Constitutional Court (*Tribunal Constitucional Plurinacional*, henceforth TCP) in October 2012, and they received it back with comments at the beginning of January 2014. By the end of January 2014, the statute was returned

⁴⁷ Article 289 CPE and Article 43 of the Autonomy Law.

once again to the TCP and in September 2015 a confirmatory referendum was held in which the “Yes” vote won (Plata 2015, 212, 215, 218). The authorities of the autonomous government of Guaraní Charagua Iyambae were elected in August 2016. The autonomous government is composed of three organs: a collective decision-making body (*Ñemboati Reta*), a legislative body (*Mborokuai Simbika Iyapoa Retai*) and an executive body (*Tëtarembiokuai Reta*). In the four zones of indigenous communities in Charagua, the authorities were voted in either by proclamation or secret vote, but in the urban areas this was only in the form of a secret vote (García Orellana 2018, 146–48).⁴⁸

In other municipalities, the AIOC project has been taken as an opportunity to radically decolonize the local government by transferring the apparatus of government away from the colonial towns historically dominated by Hispanic landowners. In Mojocoya, one of the main motivations for conversion to AIOC status, according to Plata and Cameron (2017, 38) was to protect and give legitimacy to the relocation of the seat of local government from the town of Mojocoya – the old seat of power of the landowners – to the village of Redención Pampa, which in contrast was dominated by peasants, the seat of government having already been moved by force after a disagreement between the peasants and townspeople in 2007. The legal norms of AIOC governance permit a change in the form of election of local officials, something which peasants in Mojocoya saw as a means of enabling them to block the election of the old elites of the town and the old landowners, to local government, and to formalize the *de facto* change of location of the local government (Loredo Cuiza 2015, 150–51 and 167). Article 7 of Mojocoya’s autonomy statute stated that Redención Pampa was the capital of the AIOC and the official seat of government, but that Mojocoya town was its historical, cultural and touristic center (Ibid., 176). Mojocoya’s statute was presented to the TCP in November 2012, which told it that it was 90% compatible with the Constitution. After resubmission on 2 July 2014, on 11 November of the same year, the Mojocoya statute was declared to be constitutional (Ibid., 162). However, in November 2016, the majority of people in Mojocoya voted “No” in the confirmatory referendum.

In Charazani, a disagreement over the seat of government was one of the main factors why their statute has to date (October 2020) not been sent to the TCP for approval. The *ayllu* of Amarete (which is the largest in the municipality and has the most members in Charazani’s deliberative council) proposed transferring the seat of government from the eponymous town, historically inhabited by the Hispanic landowners, to their own *ayllu*. While this proposed change was justified

⁴⁸ Article 11 CPE provides for both “representative democracy” and “communal democracy”. The former is exercised by means of the election of representatives by universal, direct and secret vote. The latter is exercised by means of the election, designation or nomination of the authorities and representatives pursuant to the norms and procedures of the indigenous nations and peoples.

on the basis that it fulfilled the decolonizing agenda under which the AIOCs had been conceived, other indigenous communities within the municipality largely opposed the move. This was partly for reasons of geography (the town of Charazani is at the center of the municipality, while Amarete lies to one side, and would therefore be less convenient to get to for many people), partly for reasons of identity (Charazani is home to the Kallawayas, an ethnic group famed for their expertise as healers, and people from other communities questioned Amarete's right to govern the municipality because they did not have a tradition as medical practitioners), and additionally because of worries of other communities that Amarete would become too powerful (most of the mayors since 1995 had been from Amarete). The result was that although Charazani's statute was drafted and agreed in principle within the deliberative council in June 2012, it has still not been approved in detail, thanks largely to a failure to agree on the location of the seat of government. Another source of tension was between indigenous authorities behind the respective autonomy projects and the elected officials of the municipal governments, because the latter tended to see the creation of indigenous autonomy in their municipality as a threat to their own political careers. All mayors of the 11 municipalities that began the AIOC conversion process in 2011 (see section 3.2) completed their full five-year term (Plata and Cameron 2017, 40–46). The mayor of the municipality of Charazani was the most supportive of the conversion process but his support may have been influenced by the proposal to move the seat of local government from the town of Charazani to his own *ayllu* of Amarete (Alderman 2016; 2018). In other municipalities, mayors showed a complete lack of interest in the AIOC conversion process or actively campaigned against conversion once the process was underway (Plata and Cameron 2017, 47–48). In the approbatory referendum in San Pedro de Totora in September 2015, in which the "No" vote won by 70.04% (Plata and Cameron 2017, 49), the municipal government campaigned strongly against the AIOC conversion. The local population was told that if they voted for the autonomy statute, they would have to pay the salaries of the teachers or face the risk of schools' closure. Similar claims were made in the initial campaign by those against the conversion of the municipality to an AIOC. They argued that the AIOC would receive no money from central government, so it would have to levy taxes (Guarachi Huanca 2015, 138–39). The increasing lack of interest, verging on hostility of the national government towards the creation of the AIOCs played a part in the lack of support of municipal governments. Although the AIOCs were central to the decolonizing agenda behind Bolivia's plurinational constitution, they were in tension with the MAS party's attempts to monopolize spaces of power, which under Evo Morales saw the government use various legal means to stifle oppositional voices (Goodale 2019). While there was no reason necessarily for the AIOCs to represent a threat to the government, they represented a loss of party political control. In Jesús de Machaca the autonomy statute-writing

process was completely postponed for two years, not just because the mayor wished to complete his full term, but because local politicians were concerned about the hostility of the national government towards the creation of the AIOCs and wished to maintain good relations with the governing party (Plata and Cameron 2017, 40 and 46).

The rejection of the statute in San Pedro de Totora also highlights a tension between young, educated, urban-oriented indigenous people who often did not live in the municipality but in the city, and the older generation. According to Plata and Cameron (2017, 53–54) the majority of those participating in the AIOC processes were not resident in the municipalities in question. The indigenous authorities within San Pedro de Totora had interpreted self-government as meaning recuperating their own forms of government practiced within the *ayllu*, including the rotational hierarchy of authority positions which requires one to pass through a series of junior positions before one can become one of the leading authorities. This was rejected by young people who saw this as frustrating their own political ambitions, which could be realized quicker within the structures of the municipal government (Guarachi Huanca 2015, 101; Plata and Cameron 2017, 50; Portugal Mollinedo 2018, 68).

10. Membership, “Quasi-citizenship” and Special Rights

While the inhabitants of AIOCs do not have “quasi-citizenship” or special rights, these autonomous territories are governed by their own statutes and according to own indigenous norms, institutions, authorities and procedures (i.e., their customary law). However, the autonomy statutes must be approved by the Plurinational Constitutional Court and the indigenous customary law must be exercised in accordance with the 2009 Constitution (*Constitución Política del Estado*, henceforth “CPE” or “the Constitution”), thus respecting human rights, as well as Bolivian laws. In addition, as mentioned above, the Statute has to receive the approval by the Plurinational Constitutional Court. Nonetheless, in principle, indigenous peoples are free to use, e.g., their own decision-making procedures or other resolution mechanisms.

The importance of indigenous peoples governing themselves according to their own norms, procedures and ways of life is highlighted by the weight given to the concept of “living well” (*vivir bien*) in the Constitution. *Vivir bien* is described in the preamble and Article 8 CPE as one of the moral precepts of the state. *Vivir bien* emerged prior to the Constituent Assembly as a concept encapsulating indigenous (particularly Andean) principles of a communitarian way of life, in which humans live in reciprocal, non-exploitative relations with their human and non-human neighbors. Implicitly, Bolivia’s Constitution recognizes that each indigenous people has their own particular understanding of what it means to live well, and explicitly the 2010 Autonomy Law requires the

autonomous entities to govern according to local understandings of *vivir bien*.⁴⁹ The autonomy statutes incorporate specific local features of *vivir bien* in indigenous cultures, reaffirming the plurality of understandings of the concept (Exeni Rodríguez 2018, 228).

11. General Assessment and Outlook

Bolivia's refounding as a plurinational state is based on the recognition of the existence of indigenous peoples and their right to determine their form of government. As such, the creation of indigenous originary peasant autonomies (*autonomías indígena originaria campesinas*, henceforth AIOCs) within the broader constitutional framework of the plurinational state provide the basis for a new relationship between indigenous peoples and the Bolivian state. As Carlos Camargo Chávez (2018, 104) has pointed out, "[i]t is an incontrovertible truth that since ancient times the [indigenous] peoples who inhabited [the territory of present-day Bolivia] have been exercising autonomy and self-government." However, their knowledge, institutions, forms of government and administration of justice have not been recognized until the creation of the plurinational state which amounted to an official recognition of these "forms of democracy and self-government" (Ibid.)

In practical terms, indigenous autonomies mark the recognition by the state of the right to difference, and in doing so, fundamentally alter the nature of the state. In quantitative terms, the fact that a decade on from the initial referendums in which 11 municipalities voted in favor of beginning the conversion to AIOCs, only two of these municipalities, plus one indigenous originary peasant territory (*territorio indígena originario campesino*, henceforth TIOC) have completed the process, does not suggest that the project to implement the recognition of indigenous peoples' right to autonomy in Bolivia has been a success. However, assessed qualitatively, in the long historical context of the struggle of indigenous peoples for state recognition of their own political autonomy, it would be right to judge indigenous self-government in Bolivia, as a path that continues to be constructed incrementally (Exeni Rodríguez 2018, 110).

Several factors hindered the development of indigenous autonomies. First, the reason why, thus far, few municipalities and indigenous originary peasant territories (*territorios indígena originario campesinos*, henceforth TIOCs) that have begun the process of conversion to AIOC status have completed it, is the double referendum requirement stipulated by the 2010 Autonomy Law: the first to agree locally to begin the process and the second to approve the autonomy statute locally once its constitutionality has been confirmed by the Plurinational Constitutional Court (*Tribunal Constitucional Plurinacional*, henceforth TCP). With municipalities expected to cover the cost of

⁴⁹ Article 5 point 5 of the Autonomy Law.

each referendum themselves this has placed an extra burden on them and became an obstacle to completing the conversion process (Ibid., 116–18). However, the 2019 amendment of the 2010 Autonomy Law abrogated the requirement of organizing a second referendum, thus simplifying the conversion process.

Second, the conversion process requires a certain level of support from elected officials, such as the mayor and councilors, and to do so effectively against their own interests. Mayors elected in 2010 and 2015 did not want to relinquish their office and often actively opposed the conversion process, even if they were once supporters of indigenous autonomy. According to Exeni Rodríguez (2018, 130), to overcome this barrier, it would be preferable for indigenous community authorities to assume an interim role of governance during the conversion process instead of mayors and municipal councilors. However, such solution would require a certain amount of agreement concerning who would take on the role of interim indigenous authorities. This would also be problematic in those areas where there is internal conflict (see section 9).

Third, the AIOCs also create a tension with the central state apparatus over sovereignty. In granting the possibility for autonomy, the Bolivian state also effectively cedes some of its power. This is why, after the initial impulse given by the 2009 Constitution and the 2010 Autonomy Law, the national government, controlled until recently by Evo Morales's Movement for Socialism (*Movimiento al Socialismo*, henceforth MAS), has shown increasingly less enthusiasm for the process of conversion to AIOCs. The MAS rose to prominence in the 1990s by building up its support at municipal level and taking control of local governments. It appears that the party became concerned about losing control of municipal governments. Symptomatic of this is that the AIOCs are not specifically mentioned in the MAS government's "Patriotic Agenda 2025" adopted in 2013 (Exeni Rodríguez 2015, 67), and do not feature prominently in the economic and social development plan of the government for the period 2016–2020.⁵⁰ However, it is worth noting that the Vice-Ministry of Autonomies and the Plurinational Constitutional Court have collaborated closely with the municipalities undergoing the process of conversion to support them (Plata and Cameron 2017, 34). The AIOCs also received support from non-governmental organizations (NGOs). Yet since the hostility of the central government towards AIOCs became clear in 2012, European NGOs began to reorient their financing towards other activities, limiting the abilities of national NGOs to offer institutional support. In 2013, the government began to threaten NGOs that offered support to

⁵⁰ The "Patriotic Agenda 2025 – 13 Pillars of a Dignified and Sovereign Bolivia" outlines the government's long-term vision and sets targets for national development under a five-year economic and social development plan. It is available online (in Spanish) at https://www.bcb.gob.bo/webdocs/enlaces/AgendaPatriotica_0.pdf (accessed on 24 September 2020). The government's 2016–2020 economic and social development plan is available online (in Spanish) at <https://observatorioplanificacion.cepal.org/sites/default/files/plan/files/pdes2016-2020.pdf> (accessed on 24 September 2020).

indigenous organizations.⁵¹ This has left the municipalities and TIOCs that were in the process of conversion to AIOCs dependent on the Ministry of the Presidency. While civil servants working for the Vice-Ministry of Autonomies are generally focused on implementing indigenous autonomy, they have been hamstrung by the 2010 Autonomy Law, the lack of financial resources, and by the hostility of elected officials (Plata and Cameron 2017, 35).

Fourth, there are also other (mainly, legal) barriers. One illustrative problem is the unsettled borders of some administrative-territorial units (Mealla 2011). The 2013 Law on territorial units⁵² aims to settle the delimitation of borders. However, several indigenous organizations have contested it. Notably, the law does not follow the principle of equal hierarchy among the autonomous territorial units⁵³ nor were indigenous peoples consulted on this law, although it affects them.

Other legal issues relate to the choice of giving autonomous status to some administrative-territorial units rather than others (e.g., Bolivia's provinces are not autonomous). The practical implications are still unclear. Moreover, the abovementioned principle of hierarchal equality of the autonomous units implies that the decisions made by a department should not infringe on the autonomy and powers of each single municipality situated within its borders and vice versa. This may lead to many potential conflicts regarding competences and practical problems of application of departmental laws or decrees in contradiction with municipal regulations. The division of powers laid down by the CPE in Articles 299–304 is not (totally) helpful either, as some competences overlap. For instance, both the departments and the municipalities have the same exclusive power regarding improvement of working conditions within the framework of the corresponding national policies.⁵⁴

⁵¹ In 2011, a protest march against government proposals to build a highway through the Isiboro Sécore National Park and Indigenous Territory (*Territorio Indígena y Parque Nacional Isiboro Sécore*, henceforth TIPNIS) was organized by the Indigenous Confederation of Eastern Bolivia (*Confederación Indígena del Oriente Boliviano* – CIDOB) and the highland organisation National Council of Ayllus and Markas of Qullasuyu (*Consejo Nacional de Ayllus y Markas del Qullasuyu* – CONAMAQ) alongside political authorities from the TIPNIS itself, and accompanied by environmental activists. The march left lowland Beni on 15 August 2011, arriving in highland La Paz on 11 October 2011, and swayed public opinion to the extent that Law no 180 of 24 October 2011 (*Ley de protección del Territorio Indígena y Parque Nacional Isiboro Sécore*) prohibited construction within the TIPNIS, which was “intangibile”. Nevertheless, Law no. 222 of 10 February 2012 (*Ley de Consulta a los Pueblos Indígenas del Territorio Indígena y Parque Nacional Isiboro Sécore*) authorised consultation in the TIPNIS concerning the highway. The government had been critical of the role of national and international NGOs in supporting the marchers and accused NGOs that opposed the government's extractive development projects of “green colonialism”. Law no. 351 of 19 March 2013 (*Ley de otorgación de personalidades jurídicas*) required all NGOs to have their legal status recertified, outlining how they worked for the social good of the country and to demonstrate how they were aligned with the state's development plans. Law no. 696 of 13 August 2017 (*Ley de Protección, Desarrollo Integral y Sustentable del Territorio Indígena Parque Nacional Isiboro Sécore*) repealed Law no. 180 of 24 October 2011 altogether, paving the way for construction of the highway to go ahead (Goodale 2019, 187–89).

⁵² Law no. 339 of 31 January 2013 (*Ley de Delimitación de Unidades Territoriales*).

⁵³ Article 276 CPE and Article 6 (2), point 3 of the Autonomy Law.

⁵⁴ Article 300 (1) point 4 and Article 302 (1) point 4 CPE.

Finally, the abolishment of the Ministry of Autonomies in 2017 and the subsequent creation of a Vice-Ministry of Autonomies under the Ministry of the Presidency (see section 8) is another sign of the then government's willingness to downgrade the relevance of the decentralization process.

In conclusion, further time is needed to judge the ultimate success or failure of indigenous autonomies in Bolivia as a political project. In particular, since Evo Morales took exile, heralding a new political conjuncture, it remains to be seen how this political project can withstand a change of government. The true test of the structures *supporting* and *supported by* the plurinational state will be whether they develop their own identity independently of whichever party is in power and come to be recognized as institutions within the Bolivian state. Notwithstanding this, the overall autonomic process and the creation of the AIOCs have broken with the centralized Bolivian past and officially created an autonomous space for indigenous peoples that has to be built gradually.

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List of abbreviations

AIOC(s) – Indigenous Originary Peasant Autonomy (Autonomies) [*Autonomía (Autonomías) Indígena Originaria Campesina (Campesinas)*]

CIDOB – Indigenous Confederation of Eastern Bolivia (*Confederación Indígena del Oriente Boliviano*)

CNTCB – National Confederation of Peasant Workers of Bolivia (*Confederación Nacional de Trabajadores Campesinos de Bolivia*)

CONAIOC – National Coordination of Indigenous Originary Peasant Autonomies (*Coordinadora Nacional de Autonomías Indígena Originaria Campesinas*)

CONAMAQ – National Council of Ayllus and Markas of Qullasuyu (*Consejo Nacional de Ayllus y Markas del Qullasuyu*)

CPE – Constitution of Bolivia (*Constitución Política del Estado*)

CSUTCB – Unified Syndical Confederation of Peasant Workers of Bolivia (*Confederación Sindical Única de Trabajadores Campesinos de Bolivia*)

INRA – National Institute Institution of Agrarian Reform (*Instituto Nacional de Reforma Agraria*)

MAS – Movement for Socialism (*Movimiento al Socialismo*)

TIOC(s) – Indigenous Originary Peasant Territory (Territories) [*Territorio (Territorios) Indígena Originario Campesino (Campesinos)*]

TCO(s) – Originary Community Territory (Territories) [*Tierra (Tierras) Comunitaria (Comunitarias) de Origen*]

TCP – Plurinational Constitutional Tribunal (*Tribunal Constitucional Plurinacional*)

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