



PLURINATIONAL STATE OF BOLIVIA

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

34TH SESSION OF THE UPR WORKING GROUP, 4-15 NOVEMBER 2019

FOLLOW-UP TO THE PREVIOUS REVIEW

During its second UPR in 2014, Bolivia accepted 178 of the 193 recommendations made to it by other states, stating that some of these were already implemented or in the process of being implemented. It further rejected 15 recommendations stating that they were not up to date or did not reflect the current situation.¹ Amnesty International welcomes that Bolivia has addressed some of the recommendations made by other states, including those regarding the establishment of a Truth Commission. However, many of the recommendations have been only partially implemented or not at all.

Justice and impunity

Bolivia accepted a recommendation to establish an independent and autonomous truth commission in accordance with international standards, to ensure effective remedy for victims of human rights violations.² In August 2017, a Truth Commission was established to investigate serious human rights violations committed under the military governments between 1964 and 1982. It is due to submit a report in August 2019 with the possibility to extend its mandate for one more year. At the same time, the armed forces announced the creation of a Working Group composed of military officers to provide support for the Truth Commission, including by granting access to their archives. Amnesty International considers that although a truth and reconciliation commission may make a positive contribution to disclosing the truth about past crimes and even providing some forms of reparation, it should not replace criminal investigations and, if there is sufficient admissible evidence, prosecution before ordinary civilian courts.

Women's human rights

Bolivia accepted all the recommendations to uphold the human rights of women and girls.³ It also accepted several recommendations related to women's rights which it considered had already been implemented or were in the process of being implemented.⁴ The National Strategic Plan on Sexual and Reproductive Health 2016-2020 is in place and being

¹ Human Rights Council, Report of the Working Group on the Universal Periodic Review of the Plurinational State of Bolivia, A/HRC/28/7, 17 December 2014.

² A/HRC/28/7, recommendation 114.70 (Uruguay).

³ A/HRC/28/7, recommendations 113.15 (Austria), 113.18 (Switzerland), 113.29 (Thailand), 113.30 (Uruguay) and 113.31 (Uruguay).

⁴ A/HRC/28/7, recommendations 114.37 (Trinidad and Tobago), 114.67 (Ireland), 114.68 (Italy), 114.77 (Mexico), 114.79 (Brazil), 114.80 (India), 114.82 (Philippines), 114.83 (Spain), 114.84 (Pakistan), 114.85 (Sri Lanka), 114.86 (Syrian Arab Republic), 114.88 (South Africa), 114.89 (Montenegro), 114.90 (Morocco), 114.91 (Singapore), 114.94 (Canada), 114.95 (France), 114.96 (Republic of Korea), 114.97 (Sierra Leone), 114.98 (Switzerland), 114.99 (Vietnam), 114.100 (Belgium), 114.101 (Chile), 114.102 (Croatia), 114.104 (Denmark), 114.106 (Italy), 114.107 (Costa Rica), 114.109 (Austria), 114.112 (Israel) and 114.113 (Egypt).

implemented.⁵ Recommendations calling for a reduction in maternal mortality and for legislation on sexual and reproductive rights have yet to be fully implemented⁶ and unsafe abortions continue to be one of the main causes of maternal mortality.

Indigenous Peoples' rights

Amnesty International welcomes Bolivia's acceptance of a recommendation to ensure that legislation on consultation with Indigenous Peoples is well-formed, takes into account Indigenous Peoples' concerns, and is effectively implemented.⁷ However, this recommendation has not been fully implemented and more is needed to ensure the right to consultation and to free, prior and informed consent of Indigenous Peoples on projects that may affect them, in line with ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples.

Human rights defenders

Threats and attacks targeted at human rights defenders remain a concern for Amnesty International, as does the fact that the only recommendation regarding the situation of human rights defenders did not enjoy the support of Bolivia.⁸

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Indigenous Peoples' rights

In August 2017, the President promulgated Law 969 allowing the construction of a road that will cut across the Isiboro Sécore National Park and Indigenous Territory (TIPNIS), one of Bolivia's main water reserves and home to approximately 14,000 people, mainly Indigenous Peoples. The Law repealed legislation under which the TIPNIS was a protected area, leading to concerns about possible violations of the rights of Indigenous Peoples resulting from development of other infrastructure and extractive projects in the area.

Women's sexual and reproductive rights

While Article 66 of the Constitution guarantees sexual and reproductive rights for women and men, this provision has yet to be fully translated into the enjoyment of these rights by all. Figures from 2015 indicate that the maternal mortality ratio in Bolivia is 206 per 100,000 live births.⁹ According to 2011 national data, complications related to unsafe abortion are the third most common cause of maternal mortality.¹⁰

Abortion is criminalized in Bolivia except when the life or health of the woman or girl is at risk or when the pregnancy is the result of rape or incest.¹¹ At the end of 2017, Bolivia issued a newly revised Criminal Code expanding the grounds for abortion before the eighth week of pregnancy to a broader range of circumstances, such as when the woman or girl is a student or cares for an elder, a person with disabilities or other blood-related children. However, in January 2018, after protests against other provisions of the Code erupted, President Morales repealed the Code in its entirety.

Rights of lesbian, gay, bisexual, transgender and intersex people

In May 2016, the government enacted Law No. 807 which allows people to change the name and/or gender noted on their

⁵ A/HRC/28/7, recommendations 114.21 (Finland) and 114.111 (Netherlands).

⁶ A/HRC/28/7, recommendation 114.77 (Mexico).

⁷ A/HRC/28/7, recommendation 113.46 (Australia).

⁸ A/HRC/28/7, recommendation 115.14 (Czech Republic).

⁹ WHO, UNICEF, UNFPA, World Bank Group, and the United Nations Population Division. Trends in Maternal Mortality: 1990 to 2015. Geneva, World Health Organization, 2015. <https://www.unfpa.org/publications/trends-maternal-mortality-1990-2015>.

¹⁰ Ministry of Health, Bolivia. *El aborto es la tercera causa de muerte materna en el país*, 24 April 2017, in: <https://www.minsalud.gob.bo/2347-el-aborto-es-la-tercera-causa-de-muerte-materna-en-el-pais>.

¹¹ Articles 263 to 269 of the Penal Code.

identity documents.

In June 2017, the Supreme Electoral Tribunal granted civil marriage rights to people who had legally changed their gender. Nevertheless, same-sex marriage remains officially unrecognized in law. In the same month, the Ombudsman proposed an amendment to the Criminal Code to make hate crimes against LGBTI people a criminal offence. In the past decade, the authorities have failed to hold perpetrators accountable for the killings of LGBTI people.

Human rights defenders

Amnesty International remains concerned that the requirements for non-governmental organizations (NGOs), foundations and other non-profit entities working in more than one of the state's departments to operate legally, established in the 2013 Law, 351 and its subsequent regulations,¹² still remain in force. One of the requirements in Law 351 is that the statute of the organization must be submitted to the government, specifying the organization's "contribution to the economic and social development" of the state.¹³ A subsequent regulation passed in June 2013 further stipulates that the statute has to specify the full extent of the activities aimed at contributing to the economic and social development of Bolivia, taking into account national planning and national and sectorial policies.¹⁴ There is no clear definition of what "contributing to economic and social development" means and failure to meet these requirements risks losing legal personality thus preventing civil society to operate effectively in the country.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Human rights defenders

During the past two years the work of human rights defenders has come under greater risk and their situation has deteriorated. Statements by the authorities,¹⁵ including the President,¹⁶ questioning the work carried out by national and international civil society organizations, raise concerns about Bolivia's commitment to protecting and guaranteeing the right to freedom of expression, association and peaceful assembly. Amnesty International has received information indicating that government policies are used to obstruct the legitimate work of human rights organizations and to delegitimize them.¹⁷

In 2015, Vice President Álvaro García threatened the Bolivian Documentation and Information Centre (CEDIB), an NGO based at that time at the Universidad Mayor de San Simón (UMSS), a public university in Cochabamba (along with three other organizations), with expulsion from Bolivia. CEDIB had publicly questioned a group of legislative decrees related to the oil industry which placed protected areas and the Indigenous Peoples who live in them at risk.

In 2016, CEDIB reported ongoing harassment following their investigation into mining rights being issued on Bolivian glaciers. The harassment included personal information and photographs of CEDIB's investigating team being shared publicly.

¹² *Ley de otorgación de personalidades jurídicas* No. 351, 19 March 2013 and *Reglamento parcial a la Ley de otorgación de personalidades jurídicas*, DS N° 1597, 5 June 2013.

¹³ *Ley de otorgación de personalidades jurídicas* No. 351, 19 March 2013, article 7.II.2.

¹⁴ DS N° 1597, 5 June 2013, article 11.2.a.

¹⁵ Video published in the You Tube account of the Ministry of Interior of Bolivia, 24 August 2018. <https://youtu.be/PD7QZEMx20w>

¹⁶ Twitter account President Evo Morales <https://twitter.com/evoespueblo/status/1036221941030551552>

¹⁷ Information received by Amnesty in 2017, 2018 and 2019. Organizations such as Bolivian Documentation and Information Centre and the Permanent Human Rights Assembly have raised concerns about this. Amnesty International has issued an Urgent Action and a Public Statement expressing concern at the difficulties that human rights defenders and organizations would be facing in the country to carry out their work (UA: 99/17 Index: AMR 18/7572/2017 and AMR 18/9303/2018).

On 6 February 2017, during a press conference at the NGO Permanent Human Rights Assembly in La Paz where CEDIB participated with CEJIS and leaders of the *Community Territory of Origin Tacana II Indigenous Territory* to announce that the Inter-American Commission on Human Rights had requested information from the Bolivian government on their request for precautionary measures, the presentation was interrupted by people associated with the *Movimiento al Socialismo* (MAS) political party, who took over the Permanent Human Rights Assembly for several hours and demanded the removal of its President.

The organizations had submitted the request for precautionary measures on behalf of Indigenous Peoples in voluntary isolation¹⁸ whose survival they alleged would be at risk due to proposed oil extraction in their territories.

In March 2017, the Dean of UMSS threatened CEDIB with eviction from its offices inside the UMSS premises, which they had occupied since 1993. Following threats of immediate eviction with the “help of the security forces” if premises were not vacated within 48 hours and fearing violence against the staff and archives, CEDIB started moving their archives to a safe location and ultimately left their offices inside UMSS. Despite the CEDIB director’s request that safety guarantees be provided to his staff and archives, he received no response from the authorities.

According to CEDIB, on 6 November 2017, Cochabamba’s Departmental Court of Justice decided to impose legal restrictions on CEDIB’s property. On 28 November 2017, without notifying CEDIB, its bank accounts were frozen by a judicial order, putting at risk the NGO’s human rights work and its employees’ salaries and their families’ financial security, since a large part of the frozen financial assets consisted of staff salaries and benefits. CEDIB learned unofficially that the Financial System Supervision Authority (ASFI) ordered these measures on 21 November 2017, based on a judicial administrative proceeding filed by the dean of the university where they had their offices.

Between August and September 2018, Amparo Carvajal, director of the civil society organisation Permanent Human Rights Assembly (*Asamblea Permanente de Derechos Humanos*, APDH), was publicly accused by high-level authorities of the Bolivian state of committing the crimes of murder and “organized crime”. The accusations were made in a context of violence following the implementation, starting in March 2018, of operations to eradicate coca leaf crops by police and military officers of the Joint Task Force in the rural community La Asunta, department of La Paz, where many people are traditionally growing this crop as a means of subsistence. Peasant people from the community and the APDH have reported that in the framework of such operations there have been cases of arbitrary detention and excessive, disproportionate or indiscriminate use of force by agents of the Joint Task Force.

Harassment against APDH members and its director has continued. In December 2018, the government identified 43 people, including APDH’s director, as promoters of “violence and racism” during the 6 December 2018 protests against the possibility of a new presidential mandate of President Morales.¹⁹

¹⁸ Indigenous Peoples in voluntary isolation are Indigenous Peoples or segments of Indigenous Peoples who do not maintain sustained contacts with the majority non-Indigenous population, and who generally reject any contact with persons who are not part of their own people. Inter-American Commission on Human Rights, *Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: Recommendations for the full respect of their human rights*, 2013, para.11 <http://www.oas.org/en/iachr/indigenous/docs/pdf/report-indigenous-peoples-voluntary-isolation.pdf>.

¹⁹ La Razón Newspaper, 10 December 2018 available at: http://www.la-razon.com/nacional/bolivia-romero-denuncia-oposicion-violencia-actores-repostulacion_0_3054294546.html

Indigenous Peoples' rights

In 2016, CEDIB submitted a request for precautionary measures to the Inter-American Commission on Human Rights (IACHR), along with the Centre for Legal Studies and Social Research (*Centro de Estudios Jurídicos e Investigación Social, CEJIS*), on behalf of the Tacana II Indigenous Peoples in voluntary isolation whose survival, they alleged, would be affected by oil exploration in their territory. A resolution of the request is still pending.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Bolivia to:

Justice and impunity

- Strengthen the Truth Commission to enable it to deliver prompt results and bring those suspected of criminal responsibility to justice in fair trials.

Women's sexual and reproductive rights

- Reform the Criminal Code to decriminalize abortion in all circumstances and ensure that women and girls seeking or obtaining an abortion, as well as the medical practitioners providing it, are not subject to criminal sanctions;
- Eliminate all administrative and practical barriers to safe and legal abortion and ensure that sexual and reproductive health services are available and accessible to all.

Rights of lesbian, gay, bisexual, transgender and intersex people

- Ensure marriage equality for all and make same-sex marriage legal.

Human rights defenders

- Foster an environment in which human rights defenders can freely carry out their legitimate human rights work and publicly recognize human rights defenders as legitimate and vital actors in society;
- Refrain from threatening and attacking human rights defenders and organizations that are critical towards government policies and views;
- Review Law 351 and Supreme Decree 1597 to ensure that legal requirements for NGOs and non-profit entities do not hamper their independence or their capacity to undertake their legitimate work.

Indigenous Peoples' rights

- Ensure the right to consultation and to free, prior and informed consent of Indigenous Peoples on projects that may affect them, in line with ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples and the jurisprudence of the Inter-American Court of Human Rights;
- Repeal Law 969, which would allow the construction of a road that will cut across the TIPNIS, and respect and guarantee the right to free, prior and informed consent of the affected Indigenous Peoples.