

Introduction and key concerns

1. This submission focuses on the situation for human rights defenders (HRDs) in Bolivia and covers developments from October 2014 to March 2019.

2. During the period under consideration, Front Line Defenders undertook field visits to La Paz, Oruro, Santa Cruz de la Sierra and Cochabamba; and met with Bolivian HRDs in Ireland, Colombia, Spain and Mexico. Front Line Defenders believes that the overall situation for the defence of human rights has not improved since the last UPR cycle and has identified the following key points of concern:

- (a) **Restrictive legal framework** for the defence of human rights, including laws restricting the ability of NGOs to freely operate;
- (b) **Hostile security apparatus, police repression and violence** towards HRDs, including instances of excessive use of force at demonstrations and arbitrary detention of leaders and organisers;
- (c) **High-level smear campaigns against and stigmatisation** of HRDs;
- (d) **Judicial harassment**, with a particular focus on indigenous and environmental leaders and their supporters and defenders;

3. It is important to note that Front Line Defenders has regularly received information regarding defenders working on LGBTI, women and indigenous peoples' rights who are not only targeted by State authorities, but are also increasingly subjected to additional harassment and attacks by non-state actors, such as religious groups and companies.

Current political context and upcoming elections

4. Bolivia is currently immersed in a deeply polarised political scenario connected to a potential fourth presidential term of current President Evo Morales, who has been in power since 2006. A constitutional amendment allowed Evo Morales to run for his fourth term in the October 2019 elections. The amendment was approved despite its defeat in a referendum on 21 February 2016 (known as the 21F Referendum) in which 51% of the population voted against it.¹ Nonetheless, in 2017 the Bolivian Plurinational Constitutional Tribunal (*Tribunal Constitucional Plurinacional*, TCP) ruled in favour of permitting President Morales to run for a fourth time, which was greeted with protests by different sections of the population.²

5. At the beginning of 2018, a proposal to reform the Criminal Code resulted in a general doctors' strike, which led to a new wave of protests in the country. The protesters demanded respect for the 21F Referendum, and also included demands related to corruption, discrimination against women and indigenous peoples and freedom of expression, among other human rights issues.³ Even after the initial proposal was withdrawn, the protests did not stop and were subsequently met with repression.

1 More information at:

https://www.bbc.com/mundo/noticias/2016/02/160223_bolivia_evo_morales_referendo_resultado_ep

2 More information at: <https://en.mercopress.com/2018/12/05/bolivia-s-electoral-court-allows-evo-to-sseek-reelection-despite-21f-referendum>

3 More information at: <https://www.efe.com/efe/america/sociedad/el-anuncio-de-abrogacion-del-codigo-penal-no-frena-las-protestas-en-bolivia/20000013-3500305>

Authorities often made use of non-lethal weapons and arbitrary detentions in order to disperse the protests.

6. Despite having a strong background in the historical struggles of indigenous peoples, Evo Morales has faced criticism regarding the government's economic development policies which have appeared to privilege national elites to the detriment of local communities. HRDs highlight that social conflicts are often treated as isolated incidents of disputes over resources, land or indigenous people's rights rather than being seen more broadly as a result of these economic policies. Due to the polarised political environment, human rights issues are often politicized and the national government has frequently treated demonstrations of discontent as orchestrated attempts from right-wing interests to destabilise the presidency of Evo Morales.

7. State institutions focused on the promotion and protection of human rights are often seen by HRDs as susceptible to political interests. Human Rights Ombudspersons (Defensor/a del Pueblo) used to be seen as independent of the government and were themselves on different occasions victims of smear campaigns and accused of "being manipulated by the opposition". However, since December 2016, a new law on the functions of the Ombudsperson's office removed previous references to the organ's independence from political interference. The Ombudspersons that were subsequently selected for the position have since then been regarded as under the influence and control of government interests.⁴

Developments since the previous UPR cycle

8. During its previous review, Bolivia accepted 17 recommendations regarding judicial reform and access to justice. The delegation of Germany recommended the initiation of "a comprehensive set of measures to address existing inefficiencies within the judicial system, including ensuring efficient prosecution and crime prevention while guaranteeing judicial independence, including that of the constitutional court." Nonetheless, access to a fair justice system remains one of the biggest challenges that local HRDs have had to face during the period under review. The misuse of state mechanisms to hamper access to justice for those working on human rights issues is notable, in particular in cases where threats of criminalisation and judicial harassment is used to intimidate lawyers working on the legal defence of HRDs (see below).

9. Bolivia also accepted five recommendations in relation to indigenous peoples' rights, four of which were stated by the government as already having been implemented or as being in the process of implementation. The recommendations tackled issues such as access to education by indigenous peoples, the application of rule of law in indigenous peoples' justice system's legal proceedings, and their participation and consultation in general and in the context of development projects. However, Front Line Defenders has noted with concern that in the past four years Bolivia has carried out development projects that directly contravene the demands of affected indigenous peoples and in spite of damaging environmental impact studies, such as the construction of a road across the **Isiboro Sécore Indigenous Territory and National Park** (*Territorio Indígena y Parque Nacional Isiboro Sécore*, TIPNIS) in 2017.⁵

4 Law 870/2016. More information at: <https://bolivia.infoleyes.com/norma/6320/ley-del-defensor-del-pueblo-870>

5 More information at: <http://www.tipnisesvida.net/>

10. Bolivia also accepted 16 recommendations on the issue of discrimination, with regard to the treatment of indigenous peoples, women and LGBTI persons. While Ireland's recommendation to "(e)xpeditiously and fully investigate and prosecute acts of violence and discrimination targeting women, indigenous, and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and guarantee an effective remedy to victims and their families" was accepted and claimed to be already under implementation, Front Line Defenders has received a number of communications that indicate a lack of proper implementation. Women human rights defenders (WHRDs) in the country are still subjected to gender-based attacks, especially those working on sexual and reproductive rights. LGBTI HRDs also face high levels of discrimination, despite constitutional provisions against it. Despite the national government's efforts to improve the treatment of indigenous persons, these populations still face disproportionate rates of poverty and unemployment – and HRDs who attempt to change the situation are often met with intimidation, threats and attacks. On a positive note, in March 2018 Bolivia signed the **Escazú agreement** alongside other Latin American countries, committing itself to promote popular participation and strengthen the protection of environmental rights defenders.

11. During the previous cycle, Bolivia received only one recommendation regarding the protection of human rights defenders, by the Czech Republic: "Ensure the protection of human rights defenders and journalists as well as efficient and impartial investigation of threats and attacks targeting them". The national authorities noted it and replied that the recommendation was not up to date, and did not reflect the current situation in Bolivia. However, Front Line Defenders has received a number of reports that point to the continuation of a pattern of a lack of protection, lack of investigations and even direct attacks and harassment perpetrated by state security forces against HRDs.

(a) Restrictive legal framework

12. Non-governmental organisations (NGOs) remain subjected to government control and a *de facto* prohibition on working on issues deemed inappropriate by the authorities, as a result of Law 351⁶ and Decree 1597 of 2013. Law 351 allows for the revocation of an organization's permit to operate if it performs activities different from those listed in its statute, or if it violates laws and decrees from the department in which it is situated. Presidential Decree No. 1597 allows any government office to request that the Ministry of Autonomy revokes an organization's legal personality for a number of additional reasons. The legal dispositions were challenged in 2015 before the Constitutional Tribunal, which upheld the legislation's validity.⁷

13. Additionally, local NGOs have faced bureaucratic challenges to register or receive a permit, without which they cannot receive funding.⁸ This is the case of the **Documentation and Research Center of Bolivia (CEDIB)** and a number of organisations which have lost their registration and have failed to obtain legal personality. After a series of attacks

⁶ More information at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/93204/108884/F190728832/BOL93204.pdf>

⁷ In a previous case from December 2013, Danish NGO IBIS was expelled from Bolivia amid accusations of "performing public management" and "misinterpreting its mandate". The organisation had been working on the country since the 1960s, promoting education and democratic engagement in rural areas.

⁸ The State's repression of human rights activities also involves the use of arbitrary administrative sanctions and fines, that often absorb the organisations' already limited resources. Human rights NGO CEGIS was fined the equivalent of 150,000 euros on false allegations of not paying work fees from 1988 to 1991. The organisation has suffered several attacks in the past, including an arson attack by ultra-right wing groups in 2008, which resulted in the loss of all their files from previous years.

against it, in November 2017, CEDIB, an NGO with a history of 45 years dedicated to research on human rights and natural resources in the country, received the news that its bank accounts had been frozen by court order at the request of the Financial System Supervision Authority (ASFI).⁹ The sanction was applied without the organisation having received a judicial notice in advance.

(b) Hostile security apparatus, police repression and violence

14. HRDs who engage on environmental issues have been subjected to intimidation, threats, surveillance, and criminalisation. On 15 May 2018, two policemen tried to detain human rights defender and lawyer **Nelson La Madrid**¹⁰ at a bus station in Cochabamba. He was *enroute* from Cochabamba City to Lagunillas to be party to a litigation in the Rositas Hydroelectric Project case. The following day, a judge declared the indigenous communities' popular action against the Rositas Hydroelectric Project inadmissible. The "**Rositas Hydroelectric Project**" (*Proyecto Hidroeléctrico Rositas*) is promoted by Bolivia's Electric National Company (*Empresa Nacional de Electricidad de Bolivia ENDE*) in indigenous territories without their free, prior and informed consent. The communities have opposed the project because it will flood approximately 45,000 hectares of land, leaving the territory of twelve Guaraní communities (approximately 500 families) under water.

15. While dispersing a protest in February 2018, police shot a tear gas cannister directly at **Franco Albarracín**, lawyer and member of the Permanent Human Rights Assembly (*Asamblea Permanente de Derechos Humanos*), which left him injured¹¹. Franco Albarracín is the son of **Waldo Albarracín**, former Human Rights Ombudsman and Dean of the *Universidad Mayor de San Andrés* (UMSA), who was subjected to threats due to his criticism to the government of Evo Morales during his term as Ombudsman.

(c) High-level smear campaigns and stigmatisation

16. The defence of indigenous peoples' rights in the face of development projects is especially stigmatised by the Bolivian government. Despite the Constitutional recognition of indigenous groups' right to autonomy, self-government and territorial entities, including the rights to free, prior and informed consent, consultations with local communities before extractive projects begin frequently do not happen or are perceived as box ticking exercises by human rights defenders. On 25 April 2018 President Morales asked the courts in Santa Cruz to resolve the Rositas Project's legal case, stating that "*he cannot understand how some families and communities can be against the dreams of the whole department*". President Morales also stated that he had not received any proposals to better protect the interests of those opposing the hydroelectric project. In a previous incident, when referring to TIPNIS, President Morales stated that whether "*you accept it or not, sooner or later there will be a paved road through the Tropic of Cochabamba to the department of Beni, which will pass through San Ignacio de Moxos*".¹²

17. Bolivian authorities have also been accused of using their support networks to generate smear campaigns and to harass, divide and silence critical groups. HRDs and

9 More information at: <https://es.mongabay.com/2017/12/cedib-bolivia-gobierno/>

10 More information at: <https://www.frontlinedefenders.org/en/profile/nelson-la-madrid>

11 More information at: https://www.eldiario.es/canariasahora/canariasopina/dia-turbio-Evo-Morales_6_743385661.html

12 More information at: <http://eju.tv/2015/04/evo-a-los-indgenas-accepten-o-no-habr-carretera-por-el-tipnis/#sthash.M8Y8ptqM.dpuf>

social leaders are often threatened or bribed to mismanage the social movements they represent, with a view to publicly stigmatising the work of human rights defenders. The stigmatisation of HRDs is also carried out in a way to create divisions between the broad population and human rights organisations. In 2016, Presidential Minister Juan Ramón Quintana falsely alleged that a number of NGOs sought to carry out a political coup.¹³

(d) Judicial harassment

18. Judicial harassment is one of the most common forms of retaliation used against HRDs in Bolivia, with particular focus on those working on indigenous peoples' and environmental rights and government accountability claims. Lawsuits and charges against HRDs appear to have been used in retaliation for the role of the accused in denouncing crimes and human rights violations rather than due to a genuine violation of the law. Although in the majority of cases the HRDs are later found innocent, they still have to commit human and financial resources to attend court and obtain proper legal defence, keeping them busy and away from their human rights work.

19. In 2015, *Quechua* indigenous leader from the **National Council of Ayllus and Markas of the Qullasuyu (Conamaq) Tata Félix Becerra** was imprisoned due to his involvement in protests against the construction of the road across the TIPNIS National Park. The HRD was placed in La Paz, away from his community and family in Cochabamba, and without full access to a legal defence. In 2017, three university students were detained and charged for protesting alongside women from Achacachi in La Paz, whose demonstrations were brutally repressed. On that occasion, WHRD **Violeta Tamayo** was severely beaten by police, and subsequently faced charges of obstructing the work of the police forces and causing light injuries to police officials.

20. As mentioned above, judicial harassment is often used against lawyers who represent indigenous groups or work on environmental issues. As a result, there are few lawyers working on the legal defence of indigenous peoples' rights, which represents another barrier to their access to justice. In 2017, lawyer and WHRD **Eliana Torrico**, representing the **Colectivo Árbol and Plataforma por el Medio Ambiente y la Vida**, was falsely accused of raiding a home and threatening a person, only one day after the *Colectivo* denounced an attempt to remove a protected tree.¹⁴

21. In 2017, former diplomat and human rights defender **Pablo Solón** faced criminal charges brought by government officials. He was accused of illegally naming state representatives and not fulfilling his duties while in charge of the Bolivian mission for the United Nations in 2011.¹⁵ Pablo Solón has been targeted for his human rights work since leaving his diplomatic role in order to dedicate himself to environmental rights organisations **Fundación Solón** (Solón Foundation) and **Observatorio Boliviano de Cambio Climático y Desarrollo** (Bolivian Climate Change and Development Observatory).

Conclusions and recommendations to the Government of Bolivia

22. Front Line Defenders calls upon the member states of the UN Human Rights Council to urge the Bolivian authorities to prioritise the protection of HRDs, and, in doing so, to:

13 More information at: <https://www.hrw.org/es/world-report/country-chapters/298590>

14 More information at: <https://www.eldeber.com.bo/santacruz/El-Colectivo-Arbol-ve-que-ladenuncia-contra-una-activista-espromovida-por-grupo-de-poder-20180328-9197.html>

15 More information at: <https://fundacionsolon.org/tag/acusacion-a-pablo-solon/>

- (a) Carry out immediate, thorough and impartial investigations into all reported instances of harassment and targeting of **environmental HRDs, urban, rural or indigenous**, pursuing as a main line of investigation the possibility that they are being targeted in retaliation for their human rights work;
- (b) Take all the necessary measures to ensure the protection and the exercise of the right to self-determination by **indigenous** populations, guaranteeing their rights to free, prior and informed consent;
- (c) Take all the necessary measures, including legislative, to ensure the protection of **HRDs** from violence and stigmatisation, especially in relation to **women, indigenous and LGBTI human rights defenders**;
- (d) Take all the necessary measures to guarantee the full exercise of **freedom of association** in Bolivia, including by adapting the national legislation on the functioning of civil society organisations, with a view to ensuring the respect for international human rights norms;
- (e) In light of the use of lawsuits and court proceedings against HRDs, the vast majority of which end in favour of the defendants, consider measures to avoid the abusive use of the **judicial system** in unfounded or fabricated proceedings;
- (f) Develop effective and transparent public policies and institutions of **accountability** for public employees, especially those working with the law enforcement, in order to reduce human rights violations perpetrated by authorities, and to ensure the appropriate remedy when it occurs;
- (g) Take measures to ensure that public officials, including members of the government, refrain from making public statements or declarations that **stigmatise** and undermine the legitimate role played by HRDs, and encourage public recognition of the important role they play in democratic societies;
- (h) Consider adopting a public policy, in close consultation with civil society, that addresses the issue of **security and protection of HRDs**, including the creation of a Mechanism focused on protecting HRDs' ability to defend human rights and not merely on direct physical protection. This should include analysis on collective protection and a gender perspective, amongst others.