



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**

**Consideration of reports submitted by States  
parties under article 73 of the Convention**

**Second periodic report**

**Plurinational State of Bolivia\***

[18 October 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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## **I. Introduction**

1. In accordance with article 73, subparagraph 1 (a), of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Plurinational State of Bolivia is submitting its second periodic report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, including an update of the measures adopted between 2008 and 2010 to comply with the provisions of the Convention.

2. The Bolivian Government submitted its initial report on the implementation of the Convention (CMW/C/BOL/1) on 19 April 2007. And as part of its policy of openness in human rights, on 10 April 2008 the Government of Bolivia sent the Committee a report (CMW/C/BOL/Q/1/Add.1) on a voluntary basis, addressing the list of issues raised by the Committee on 30 November 2007 (CMW/C/BOL/Q/1).

3. The swearing-in of Evo Morales Ayma as President of the Bolivian State marked the start of significant and far-reaching changes. This led the administration to identify the full, effective and continuous implementation of human rights with a comprehensive vision and based on plurinationality as a priority.

4. The Constitution has enshrined an extensive catalogue of rights which incorporates the emerging categories of inter-American and universal human rights protection instruments, incorporating and recognizing the principles of inviolability, universality, interdependence, indivisibility and progressiveness of human rights. Likewise, Bolivia promotes ongoing cooperation with various international organizations, with a view to improving the protection and safeguarding of human rights at national level, consistent with international standards.

5. Migration is a priority on the present Government's domestic and foreign policy agenda. Against that background, Bolivia recognizes that full respect for human rights of this group of people is still a challenge, because although progress has been made on measures designed to protect the human rights of migrants, there is still no legislation that fully recognizes the rights of this group.

6. Bolivia was one of the first countries to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Their Families, thereby manifesting its political will to safeguard the rights of all migrant workers in accordance with provisions of that international instrument.

7. Finally, the Government of Bolivia wishes to draw the attention of the Committee to the valuable participation and contributions made by civil-society organizations, academics and Government bodies involved in drafting this report.

## **II. Information of a general nature**

### **A. Political and administrative structure of the Plurinational State of Bolivia**

8. After several years of social and political crisis, the Bolivian people, through the social and trade union movements and organizations, demanded a radical reform of the country. In 2009 it was transformed from a colonial State into a new plurinational constitutional State.

9. The Constitution of Bolivia is the seventeenth constitutional text in the country's history; it was adopted by the Constituent Assembly in December 2007. Amendments from the National Congress were received in 2008 and it was submitted for consideration to the people on 25 January 2009 in a binding referendum and was finally enacted on 7 February 2009 by President Evo Morales Ayma.

10. The new Constitution of the Plurinational State of Bolivia established Bolivia as a unitary, social, plurinational, communitarian, free, independent, sovereign, democratic, intercultural and decentralized State with autonomous regions. Furthermore, a democratic, participative, representative and communitarian form of government was adopted, with equal conditions for men and women.

11. Sovereignty resides with the Bolivian people and is exercised directly and delegated, the functions and powers of the branches of government emanate from it, and the State is divided into executive, legislative, judicial and electoral branches. The executive branch of government is made up of the President, the Vice-President and the ministers of State.<sup>1</sup>

12. One structural change introduced by the new Constitution is the emergence of the autonomous departmental, regional, municipal and indigenous campesino authorities, which are directly elected, administer their financial resources and exercise legislative, regulatory, supervisory and executive powers.

13. In the second term of President Morale (2010–2015), legislative changes were set in motion to bring the law into line with the current Constitution. The following were enacted during the year: the Constitutional Court Act, the Judiciary Act, the Electoral Act, the Electoral Bureau Act, and the "Andrés Ibáñez" Autonomy Act, the Act against Racism and All Forms of Discrimination, among others.

14. Unlike the previous Constitution, the current Constitution fully recognizes the fundamental rights and classifies them as civil rights, political rights, rights of the native indigenous campesino nations and peoples, social and economic rights, rights of children, adolescents and young persons, family rights, rights of older persons, rights of persons with disabilities, rights of persons deprived of liberty, rights of users and consumers, rights to education and interculturalism and cultural rights.

15. The promotion, protection and dissemination of human rights are among the obligations of the Ombudsman's Office, which has the task of ensuring the observance, promotion, dissemination and implementation of the individual and collective human rights enshrined in the Constitution, the law and international instruments. Its remit also encompasses administrative activities throughout the public sector and the activities of private institutions providing public services.

## **B. Migration in Bolivia**

16. Bolivia is a country of origin, transit and destination of migrants.

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<sup>1</sup> Ministry of Production Development, Ministry of Rural Land Development, Ministry of Justice, Ministry of Transparency and the Fight against Corruption, Ministry of Autonomies, Ministry of Culture, Ministry of National Defence, Ministry of Legal Defence of the State, Ministry of Economy and Finance, Ministry of Education, Ministry of the Interior, Ministry of Oil, Gas and Energy, Ministry of the Presidency, Ministry of Environment and Water, Ministry of Mining and Metallurgy, Ministry of Public Works, Services and Housing, Ministry of Development Planning, Ministry of Foreign Affairs and Worship, Ministry of Health and Sport and Ministry of Labour.

## 1. Emigration

17. As a country of origin of migrants, the migratory flow of Bolivians abroad has soared in recent years, due mainly to people seeking to improve their standard of living in another country.

18. According to the latest national population and housing census in 2001, the population living in Bolivia was 8,274,325, projected to increase to 10,426,154 by 2010.<sup>2</sup>

19. According to information provided by the Ministry of Foreign Affairs, it is estimated that over 20 per cent of the Bolivian population is outside the country, meaning that some 2,107,660 Bolivians are living abroad, as shown in table below:

### Migratory Flows of Bolivian citizens abroad

No.	Country	Bolivians	%
1	Argentina	1 261 930	59.87
2	Spain	342 200	16.24
3	United States of America	266 915	12.66
4	Brazil	125 900	5.97
5	Chile	33 400	1.58
6	Italy	30 000	1.42
7	United Kingdom	20 000	0.95
8	Switzerland	9 000	0.43
9	Japan	6 531	0.31
10	Sweden	5 500	0.26
11	France	4 098	0.19
12	Canada	2 186	0.10
13	Other	19 533	0.93
<b>Total</b>		<b>2 107 660</b>	<b>100.00</b>

Source: Ministry of Foreign Affairs of the Plurinational State of Bolivia.

20. Based on information provided by the Directorate-General of Migration (DIGEMIG), the table below shows the number of Bolivians leaving via border posts over the past three years, broken down by their chosen neighbouring destination of Peru, Chile, Argentina, Paraguay or Brazil.

Table 1  
Bolivians abroad

Department	Frontier post	Numbers leaving the country, 2008	Numbers leaving the country, 2009	Numbers leaving the country, 2010	Neighbouring host country
La paz	Desaguadero	48 297	57 038	62 366	Peru
	Kasani	2 733	2 807	3 322	
	Charaña	1 531	1 397	1 077	

<sup>2</sup> Data obtained from projected total population statistical information: <http://www.ine.gov.bo/indice/visualizador.aspx?ah=PC20410.HTM>

<i>Department</i>	<i>Frontier post</i>	<i>Numbers leaving the country, 2008</i>	<i>Numbers leaving the country, 2009</i>	<i>Numbers leaving the country, 2010</i>	<i>Neighbouring host country</i>
	Tiquina	72	121	321	
	Tambo Quemado	19 348	19 640	22 902	
Oruro	Pisiga	13 510	14 258	17 429	
	Abaroa	6 562	6 867	7 325	
	Hito Cajones	462	469	476	Chile
Potosi	Villazon	76 595	85 640	72 073	
	Yacuiba	61 802	62 568	72 713	
	Bermejo	51 097	49 250	53 560	Argentina
Tarija	Ibibobo	15 456	16 275	15 047	Paraguay
	Puerto Suárez	13 390	19 460	28 565	
	San Matias	1 631	2 565	1 164	
Santa Cruz	San Ignacio	116	118	128	
	Guayaramerin	2 031	2 238	2 549	
Beni	Riberalta	44	49	56	
Pando	Cobija	7 362	7 385	7 351	Brazil

*Source:* Computation and Statistics Unit of the Directorate-General of Migration.

21. Moreover, according to studies by the Office of the Ombudsman of Bolivia, the traditional migration destinations of Bolivians are Argentina, Spain, the United States, Brazil, Chile and Peru.<sup>3</sup> Likewise, according to information provided by the Directorate-General of Migration, Bolivians preferred host countries are Spain (19.6 per cent), the United States (16.4 per cent); Peru, Brazil, Argentina and Chile, accounting for 49 per cent of departures during 2008.<sup>4</sup>

22. Argentina is regarded as the traditional destination for Bolivian migration, a phenomenon that began in the 1960s in the provinces of the country's northwest region. It is estimated that between 1.5 million and 2 million Bolivians are currently living in Argentina.<sup>5</sup> There are data showing that a Bolivian community has been settled there since the nineteenth century, and that it has grown owing mainly to the economic crisis affecting Bolivia and the demand for labour in activities such as the sugar-cane and tobacco harvests in the border area.

23. The top destinations in Argentina for Bolivian migrants are Buenos Aires, Jujuy, Salta, Mendoza and Rosario. In the province of Mendoza there are records of a rise in Bolivian migration flow in the wine industry and vegetable harvesting, which increased demand for rural labour and contributed to population growth in the city and province of Mendoza.

<sup>3</sup> "Migración y Desplazamientos Poblaciones al Exterior del País" (Migration and Displaced Populations Outside the Country) – Ombudsman of Bolivia. P. 13 et seq.

<sup>4</sup> Since 2007, the Directorate-General of Migration has published the annual report for that year, drafted using the statistical reports provided by the various district migration departments and border posts in Bolivia. We would inform the Committee that the document containing the statistical information for 2009 is currently being reviewed for publication.

<sup>5</sup> F. Bruno, Bruno. "Cifras imaginarias de la inmigración limítrofe en la Argentina" (Imaginary figures for immigration from neighbouring countries into Argentina).

24. Currently, one of the destinations of Bolivians is Spain, where migration has greatly increased since the last decade of the twentieth century on account of two basic factors, the first being the economic crisis affecting the Republic of Argentina towards the end of the year 2000, and the second, the attacks of 11 September on the Twin Towers in New York, which led to a tightening of measures on immigration into the United States and on its homeland security policy.

25. According to the Spanish National Statistics Institute there are an estimated 210,624 Bolivians in Spain, and most immigrants of Bolivian nationality are in an irregular situation.<sup>6</sup> The Bolivian Ministry of Foreign Affairs reckons the number of Bolivians living in Spanish territory at 342,200, the five most popular destinations in Spain being Madrid, Barcelona, Valencia, Murcia and Vizcaya.

### Foreign population by country

(Provisional data)

	<i>Foreign population at 1 January 2010 (provisional data)</i>		<i>Foreign population at 1 January 2009 (actual data)</i>		<i>Absolute change</i>	<i>Relative change (%)</i>
	<i>Number of persons</i>	<i>As % of all foreigners</i>	<i>Number of persons</i>	<i>As % of all foreigners</i>		
<b>Total</b>	<b>5 708 940</b>	<b>100.0</b>	<b>5 648 671</b>	<b>100.0</b>	<b>60 269</b>	<b>1.1</b>
Romania	829 715	14.5	798 892	14.1	30 823	3.9
Morocco	746 760	13.1	718 055	12.7	28 705	4.0
Ecuador	395 069	6.9	421 426	7.5	-26 357	-6.3
United Kingdom	387 226	6.8	375 703	6.7	11 523	3.1
Colombia	289 296	5.1	296 674	5.3	-7 378	-2.5
Bolivia	210 624	3.7	230 703	4.1	-20 079	-8.7
Germany	195 579	3.4	191 002	3.4	4 577	2.4
Italy	183 999	3.2	175 316	3.1	8 683	5.0
Bulgaria	169 195	3.0	164 717	2.9	4 478	2.7
China	156 607	2.7	147 479	2.6	9 128	6.2
Portugal	142 299	2.5	140 870	2.5	1 429	1.0
Peru	139 284	2.4	139 179	2.5	105	0.1
Argentina	130 557	2.3	142 270	2.5	-11 713	-8.2
France	123 681	2.2	120 507	2.1	3 174	2.6
Brazil	116 551	2.0	126 185	2.2	-9 634	-7.6
Dominican Republic	90 195	1.6	88 103	1.6	2 092	2.4
Poland	86 199	1.5	85 040	1.5	1 159	1.4
Paraguay	84 846	1.5	81 551	1.4	3 295	4.0

<sup>6</sup> The administrative situation of a foreigner becomes irregular when:

- (a) He did not enter in a proper manner through authorized posts and with the necessary documentation;
- (b) Having entered in a regular manner, he has stayed for the time allowed and his visa has therefore expired, or having entered without needing a visa, his stay has exceeded the three-months allowed;
- (c) Having been in a regular situation, he was unable to renew his permit for one reason or another.

	Foreign population at 1 January 2010 (provisional data)		Foreign population at 1 January 2009 (actual data)		Absolute change	Relative change (%)
	Number of persons	As % of all foreigners	Number of persons	As % of all foreigners		
Ukraine	82 373	1.4	82 265	1.5	108	0.1
Senegal	61 383	1.1	56 590	1.0	4 793	8.5

Source: Spanish National Statistics Institute.

26. We would point out that in recent years, there were declines in citizens from Ecuador (26,357 less), Bolivia (20,079 less) and Argentina (11,713 less), as a result of the harsh anti-immigration policies implemented in the European Union countries.

27. On the other hand, the United States is one of Bolivians' preferred emigration destinations. Migration to this destination began in the 1970s and grew in the 1980s. It is unofficially estimated that about 200,000 to 250,000 Bolivian nationals live in the United States, and that a high percentage of Bolivian migrants are in an irregular situation (undocumented). The Bolivian community is the second-largest Hispanic community in Washington D.C., while San Francisco, Los Angeles, New York, Miami and Chicago are also home to smaller Bolivian communities.

#### *Growing numbers of female migrants*

28. In recent years, a growing proportion of migrants to Europe, specifically to Spain, have been women. This implies that many Bolivian women took the decision to migrate mainly for economic and employment reasons, i.e. low-income, job insecurity and lack of opportunities for advancement and access to better quality of life for both themselves and their families. The principal occupations of Bolivian migrant women are housework, cleaning, caring for children, the elderly and the sick.<sup>7</sup>

#### *Remittances*

29. Remittances to Bolivia by Bolivians abroad fell by 5 per cent in the first quarter of 2010 in relation to the same period in 2009. According to a report by the Central Bank of Bolivia (BCB), remittances in 2010 were \$221.4 million, while in 2009 they were \$233 million and \$258.5 million in 2008. According to the BCB, remittances amounted to \$221 million in the first quarter of 2010, 5 per cent lower than in the same period of 2009.<sup>8</sup>

30. The main source of remittances is Spain, accounting for 40 per cent of the \$221 million, followed by Argentina (23 per cent) and the United States (21 per cent). Remittances from the last two increased in 2010 in relation to 2009.

## **2. Immigration**

31. Peruvian and Brazilian nationals make up the largest proportion of foreign immigrants in Bolivia. Migration into Bolivia is low in relation to other Latin American countries. According to data from the 2001 census, there are 87,338 immigrants<sup>9</sup> living and

<sup>7</sup> "Migración de Mujeres Bolivianas a España – El fenómeno social más allá de lo económico" (Migration of Bolivian Women to Spain – Not only an economic but also a social phenomenon) Fundación Colectivo Cabildeo. 2010.

<sup>8</sup> Report of the Central Bank of Bolivia (BCB), July 2010.

<sup>9</sup> CITE external note: INE/DEIS/DIR No. 1931/10 of 29 November 2010 (National Statistics Institute).



working in Bolivia, which means that 1 per cent of the Bolivian population are immigrants. The majority come from neighbouring countries, principally Peru, Brazil and Colombia.

32. The Bolivian National Statistics Institute (INE) does not have up-to-date information on international migration so, to make good the lack of figures and statistics on the number of immigrants in Bolivia, the Inter-institutional Coordinating Mechanism for Migration is working in coordination with the Ministry of Planning and the National Statistics Institute to ensure that questions on international migration are included in the form of the population and housing census to be conducted in 2011.

33. The only data the INE have concern the arrival and departure of international travellers by mode of transport and type of traveller for the period 1999–2009. These arrival and departure data are used to produce figures on the movement of foreigners in Bolivia.

<i>Mode of transport and type of traveller</i>	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>Total</b>	<b>576 507</b>	<b>551 688</b>	<b>581 986</b>	<b>597 144</b>	<b>703 439</b>	<b>767 803</b>	<b>861 336</b>	<b>860 133</b>	<b>949 261</b>	<b>1 042 577</b>	<b>1 191 292</b>
Bolivian	234 260	232 448	265 567	262 753	276 155	287 809	337 020	338 850	376 446	448 850	520 065
Foreign	342 247	319 240	316 419	334 391	427 284	479 994	524 316	521 283	572 815	593 727	671 227
<b>Air</b>	<b>411 174</b>	<b>407 585</b>	<b>370 257</b>	<b>338 111</b>	<b>371 784</b>	<b>401 315</b>	<b>445 748</b>	<b>384 215</b>	<b>407 784</b>	<b>382 802</b>	<b>439 508</b>
Bolivian	174 716	174 498	162 418	139 115	150 158	161 290	178 437	142 258	161 050	159 389	192 423
Foreign	238 458	233 067	207 839	198 996	221 626	240 025	267 311	241 957	246 734	223 413	247 085
<b>Road</b>	<b>132 206</b>	<b>114 782</b>	<b>178 162</b>	<b>227 632</b>	<b>308 747</b>	<b>342 418</b>	<b>392 159</b>	<b>454 737</b>	<b>526 449</b>	<b>644 288</b>	<b>734 876</b>
Bolivian	41 255	42 089	82 836	104 268	111 502	110 888	142 345	182 432	204 954	278 921	316 541
Foreign	90 951	72 693	95 326	123 364	197 245	231 530	249 814	272 305	321 495	365 367	418 335
<b>Rail</b>	<b>27 021</b>	<b>21 917</b>	<b>28 745</b>	<b>28 667</b>	<b>20 231</b>	<b>19 990</b>	<b>21 570</b>	<b>19 294</b>	<b>13 397</b>	<b>13 883</b>	<b>15 221</b>
Bolivian	17 211	14 380	19 198	18 561	13 678	14 401	15 649	13 669	9 970	10 076	10 589
Foreign	9 810	7 537	9 547	10 106	6 553	5 589	5 921	5 625	3 427	3 807	4 632
<b>River-lake</b>	<b>6 106</b>	<b>7 424</b>	<b>4 822</b>	<b>2 734</b>	<b>2 677</b>	<b>4 080</b>	<b>1 859</b>	<b>1 887</b>	<b>1 631</b>	<b>1 604</b>	<b>1 687</b>
Bolivian	1 078	1 481	1 115	809	817	1 230	589	491	472	464	512
Foreign	5 028	5 943	3 707	1 925	1 860	2 850	1 270	1 396	1 159	1 140	1 175

*Source:* National Statistics Institute.

34. Similarly, the Computation and Statistics Unit of the Directorate-General of Migration provides the numbers of foreigners legally resident in Bolivia in accordance with the procedure in each department. The highest levels of foreigners are in the departments of La Paz, Cochabamba and Santa Cruz, as detailed in the tables below.

<i>Procedure</i>	<i>Department</i>														
	<i>Sucre</i>			<i>Beni</i>			<i>Potosí</i>			<i>Tarija</i>			<i>Oruro</i>		
	2008	2009	2010	2008	2009	2010	2008	2009	2010	2008	2009	2010	2008	2009	2010
Extensions	49	67	14	39	49	20	16	17	15	33	34	37	35	42	62
Specific purpose	54	67	105	65	82	32	36	46	153	94	109	155	43	50	180
Temporary residence															
1 year	57	66	94	60	61	65	88	89	85	82	91	119	16	20	33
Temporary residence															
2 years	32	38	56	30	36	18	5	19	34	32	33	37	5	8	16
Temporary residence															
1 year															
Catholic religious															
personnel	11	12	8	8	12	0	6	6	5	8	8	8	5	5	6
Temporary residence															
1 year – missionaries	19	20	18	10	14	3	1	1	5	0	0	8	2	3	0
Temporary residence															
2 years – missionaries	0	2	7	2	3	6	0	0	0	0	0	0	0	0	0
Temporary residence															
2 years															
Catholic religious															
personnel	9	12	4	7	9	2	7	9	2	1	0	3	8	6	0
Student residence															
1 year and 2 years															
(as per agreement)	204	212	188	14	17	7	21	27	9	7	14	35	19	20	24
Permanent residence –															
missionaries	4	7	17	5	7	0	0	0	0	1	1	0	0	0	0
Permanent residence	1	7	38	5	8	113	2	3	0	2	4	10	9	8	5

<i>Procedure</i>	<i>Department</i>														
	<i>Pando</i>			<i>Cbba</i>			<i>Santa Cruz</i>			<i>La Paz</i>					
	2008	2009	2010	2008	2009	2010	2008	2009	2010	2008	2009	2010			
Extensions				0	0	12	46	92	230	171	265	548	390	409	465
Specific purpose				5	8	16	402	405	414	1 207	1 262	1 426	238	355	707
Temporary residence 1 year				13	14	18	217	276	453	429	1 635	5 252	471	516	382
Temporary residence 2 years				0	2	7	11	72	255	625	729	1 041	900	974	1 196
Temporary residence 1 year –															
catholic religious personnel				1	1	2	241	224	172	86	98	133	79	87	64
Temporary residence 1 year –															
missionaries				0	0	0	116	118	123	166	175	148	61	67	84
Temporary residence 2 years –															
missionaries				0	0	0	22	29	51	42	68	147	152	156	168
Temporary residence 2 years –															
catholic religious personnel				0	0	1	36	55	112	43	44	48	158	164	183
Student residence 1 year and 2 years															
(as per agreement)				1	11	156	2 271	2 791	4 350	2 151	2 512	3 596	722	718	706

Procedure	Department											
	Pando			Cbba			Santa Cruz			La Paz		
	2008	2009	2010	2008	2009	2010	2008	2009	2010	2008	2009	2010
Permanent residence – missionaries	0	0	0	0	0	0	55	69	26	14	15	65
Permanent residence	9	9	8	212	266	105	400	436	544	124	247	617

Source: Computation and Statistics Unit of the Directorate-General of Migration.

35. According to studies by civil society organizations, the Peruvian community appears to be one of the most significant groups in Bolivia, and is resident in the main cities (La Paz, El Alto, Cochabamba and Santa Cruz).<sup>10</sup>

36. Furthermore, many of the Peruvian nationals in Bolivia are self-employed in car-repair workshops, domestic work and informal sales at Sunday fairs in the city of El Alto (La Paz). Another segment of the Peruvian community works in services such as ceviche restaurants, crafts, unskilled labour or in free trades, as musicians, street vendors or street pharmacists.<sup>11</sup>

37. The Brazilian community is also present in Bolivia, especially in border towns like Santa Cruz, Cobija and other border areas;<sup>12</sup> a high proportion of the Brazilians in the city of Santa Cruz are students, because access to university faculties is more affordable in terms of tuition fees, materials, and monthly payments.

38. There is a sizeable Argentine community nowadays in Bolivia, mostly composed of young people in the 20 to 30 age range, who immigrated to Bolivia out of curiosity and interest in discovering a new culture, customs and lifestyle in this country under the present Government of President Evo Morales Ayma. Many of them claim to have had no difficulty in finding work, because in Bolivia they are free to carry out any business activity.

39. Finally, we were also in contact with a segment of the Chilean community. According to the INE census in 2001, some 4,163 Chileans are resident in Bolivia.<sup>13</sup> Most of them are business people, employees, traders, students and religious personnel, who chose to settle in the cities of Santa Cruz, La Paz and Sucre.<sup>14</sup>

## C. Overview of the implementation of the Convention in the country

### 1. Measures implemented by the Bolivian Government in relation to the Convention

40. Under articles 2 and 3 of Supreme Decree (DS) No. 25150 of 4 September 1998, it is for the National Migration Service (now the Directorate-General of Migration) to regulate, register and control the entry and departure of persons into and out of the country, manage the aliens and naturalization regime, regulate and process the entry, residence and

<sup>10</sup> <http://www.desdelsur.bo/desdelsur/index.php?id=91>

<sup>11</sup> Bolivian Human Rights Chapter, CEDLA. "Los Derechos Humanos de los Migrantes, situación de los derechos económicos, sociales y culturales de los migrantes peruanos y bolivianos en Argentina y Chile" (Human rights of migrants: economic, social and cultural rights of Peruvian and Bolivian migrants in Argentina and Chile).

<sup>12</sup> Information provided by the Regional Coordinator of the International Migrants Defence Association (Santa Cruz).

<sup>13</sup> CITE external note: INE/DEIS/DIR No. 1931/10 of 29 November 2010 (National Statistics Institute).

<sup>14</sup> Source: <http://www.eldeber.com.bo/antiores/20040711/nacional7.html>.

right of abode of foreign citizens, manage the issue and control of passports, and study migration policy in Bolivia.

41. The Directorate-General of Migration has its central office in the city of La Paz, and has the following operational departments: the Department of Aliens and Passports, the Department of Inspections and Settlement and the Department of Legal and Administrative Affairs, which perform their duties in coordination with the eight district offices located in the departmental capitals, 17 border control points and six intermediate control points, in addition to the Directorate-General. The border points have been upgraded with the provision of computer equipment, stationery and uniforms.

42. In recent years, the Directorate-General of Migration has been carrying out activities aimed at improving customer service and combating corruption and influence peddling. The Directorate-General of Migration has also brought administrative and judicial proceedings, for example against former officials for acts of corruption, forgery and provision of false information, trading and trafficking in persons and abuse of authority; supervised and monitored the district migration offices and border and intermediate migration checkpoints; conducted workshops, seminars, and meetings with public servants from the Directorate-General of Migration, and coordinated with various institutions through meetings, such as the Ministry of Health, Ministry of Labour, Office of the Deputy Minister for Foreign Affairs, Department of Consular Affairs of the Ministry of Foreign Affairs, INTERPOL, Crime Squad (FELCC), Drug Squad (FELCN), Identification Department, Airlines Association, the High Command of the Bolivian police, consulates, Hotels Association, and the Travel and Tourism Association, to implement plans and programmes on operational and other controls related to migration.

43. Note also that during 2009, the Directorate-General of Migration was managing the implementation of the National Integrated System, which will enable immediate communication and information exchange with the district offices and border and intermediate checkpoints through a national network, and the issue of passports personalized according to international standards laid down by the International Civil Aviation Organization (ICAO). The system will be closely linked with settlement, uprooting, migration, immigration formalities, foreign identity documents, etc.

44. Also, since October 2009, the Directorate-General of Migration has implemented the passport issuing system ensuring that Bolivian citizens are provided with a reliable document containing accurate information, complying with ICAO rules and internationally recognized personalization security and quality standards. Passports feature the two-dimensional bar code for biometric and alphanumeric data and quality control and supervision, which is a qualitative leap for the modernization of the institution.

<i>Issue of passports</i>	<i>Date</i>	<i>Number</i>
	From 27/10/2009 to 31/12/2009	11 521
For citizens in the territory	From 01/01/2010 to 31/12/2010	63 700
<b>Total</b>		<b>75 221</b>

*Source:* Parentage Unit, Department for Aliens.

45. Since April 2010, pursuant to Supreme Decree No. 0449,<sup>15</sup> the Directorate-General of Migration has been issuing passports to Bolivians resident abroad.

<sup>15</sup> Supreme Decree No. 0449 of 17 March 2010.

<i>Issue of passports</i>	<i>Date</i>	<i>Number</i>
For Bolivians resident abroad	From 01/04/2010 to 31/12/2010	25 949

*Source:* Parentage Unit, Department for Aliens.

46. Since May 2010, the Aliens Registration Unit (ORPE), in coordination with the Directorate-General for Revenue, has been issuing new identity cards for foreign nationals resident in Bolivia. These documents offer security, quality and reliability features. The Directorate-General of Migration issued 14,028 foreigner identity cards in 2010.

47. The Directorate-General of Migration also signed agreements with a number of institutions: the Departmental Police Command, Development Agency for Macro Border Regions (ADEMAF) National Customs of Bolivia, Land and Forests Authority (ATB), Public Prosecution Service, Ministry of Mining, FELCC and INTERPOL. These agreements served to step up migration control and conduct migration control operations in trouble spots such as the Amazon region and Chiquitania.

48. Regarding the completion of the formalities for aliens in 2010, the Directorate-General of Migration concluded 35,670 cases, an increase over previous years as shown in the following table:

#### **From 2006 to 30 November 2010**

<i>Year</i>	<i>Number of cases concluded</i>
2006	No data
2007	7 594
2008	16 916
2009	26 433
2010	35 670
<b>Total</b>	<b>86 613</b>

*Source:* Management report 2006–2009, Computation and Monthly Reports Unit.

49. The basic tasks of the Directorate-General of Migration also include combating corruption, and this is reflected in a reduction of such acts within the institution and in proceedings or complaints to the relevant authorities.

#### **Criminal proceedings brought in 2010**

<i>Type of proceedings</i>	<i>Number</i>
Criminal proceedings against third parties	23
Criminal proceedings against former officials	12
Administrative proceedings	2
<b>Total</b>	<b>37</b>

*Source:* Department of Legal Affairs.

50. Furthermore, in the National Development Plan: "Bolivia—Dignity, Sovereignty, Productivity, Democracy, living well—2006–2011"<sup>16</sup> the present Government of President Morales introduced the topic of migration in the country's development, stipulating that work on this issue must be inclusive and comprehensive.

51. Accordingly, Chapter 5 of the National Development Plan introduced a policy and strategy on State care for Bolivians abroad, establishing a policy of regularizing their migration status. To that end it is planned to consolidate and expand bilateral agreements already in place and negotiate others to establish social protection networks for Bolivians abroad.

52. Therefore, the Department of Consular Affairs (DGRC), which reports to the Office of the Deputy Minister for Foreign Affairs of the Ministry of Foreign Affairs, has prioritized the issue of migration as Government policy in the National Development Plan, so that the financial resources for medium- and long-term implementation are guaranteed, not only through international cooperation but also through own resources of the Ministry of Foreign Affairs.

#### *Inter-institutional Coordination Mechanism for Migration*

53. After two years of coordination between various institutions and organizations involved in migration issues, on 18 December 2008, the Ministers of the Plurinational State of Bolivia, representatives of the Legislature, Judiciary, National Electoral Court, Ombudsman's Office, national institutions, international organizations and civil-society representatives met in the city of La Paz to sign a national agreement for Bolivians abroad, which seeks to implement an effective public policy of support for Bolivians living abroad, and contributes to the achievement of a sovereign, dignified and productive Bolivia, founded on the principles established in international legislation and conventions that aim to protect and ensure full respect of the human rights of migrants and their families, particularly women and children, regardless of immigration status.

54. The public migration policy that is to be institutionalized in the new Plurinational State of Bolivia provides for two levels: first, the domestic or national level where everything is agreed with civil society and other public stakeholders in the issue through the Inter-institutional Coordination Mechanism for Migration, and second, the external level through procedures with States at international level via the Bolivian consulates abroad.

55. As part of the process of strengthening the Coordination Mechanism, the Department of Consular Affairs has conducted a series of activities aimed at consolidating the mechanism for ongoing dialogue on migration based on a broad agenda that includes not only the policies of care and support for Bolivian citizens living abroad, but also policies for promoting ties with their families and their communities of origin, and to promote democratic, cultural and social participation.

56. The Coordination Mechanism is made up of several institutions, from both government (Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Justice, Ministry of Planning, Ministry of Education, BCB, INE and the Ombudsman's Office) and civil society (Bolivian Human Rights Chapter, Human Mobility Pastoral, Coordinadora de la Mujer and Colectivo Cabildeo), which meet regularly in various working groups covering the following topics: institutional regulations, economics, labour migration, cross-border development, education, tourism, trade and culture, migration, gender and the family.

57. The Coordination Mechanism is carrying out a number of specific measures with a view to defining Government migration policy, reaffirming the commitment of the

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<sup>16</sup> Supreme Decree No. 29272.

Plurinational State to its migrant communities and creating synergies between the various public institutions and civil society related to this issue in order to devise comprehensive and multidimensional responses to the causes, origins and destinations of Bolivian migration.

58. In 2009, the Coordination Mechanism established a national migration management policy, by strengthening a permanent consultation mechanism between the various national sectors related to this issue, a joint initiative of the Plurinational State of Bolivia with civil society to guarantee the welfare and development of Bolivian migrants. Strengthening this body required the support of the International Organization for Migration (IOM), in order to devise specific measures to promote the involvement of these communities in national life, providing the necessary opportunities to structure and channel their participation in the various categories of activities that relate directly to Bolivia, and developing activities to facilitate their comprehensive integration in the host countries.

59. The consolidation of the Coordination Mechanism is designed to introduce public policies to support the Bolivian *diaspora*, i.e. to mainstream migration issues in various areas in both the State and civil society. Accordingly, a number of measures, agreed in a Coordination Mechanism strategic planning workshop, were completed and are in progress. They were designed to set up the first Coordination Mechanism activities relating to the role of remittances in the country's development, to devise a return plan for Bolivians outside the country, to put in place policies relating to circular migration, and networking events on the subject of health and maintaining cultural ties between Bolivians born abroad and our country, with a view to taking the best decisions for the benefit of our people abroad.

60. Initially, the Coordination Mechanism had planned to work in the Mechanism's seven working groups: institutional regulations, economy, labour migration and cross-border development, education, tourism, trade and culture, migration, gender and family. However, at the suggestion of the participants, it was agreed that the Coordination Mechanism should set up the following four working groups only:

- (a) Institutional regulations;
- (b) Welfare (health, education, culture, gender and family);
- (c) Economy (labour, trade, remittances);
- (d) Refugees.

61. Working groups 1 and 4 are working on the draft Immigration Bill and group 4 has a draft Refugee Bill at the evaluation stage in all public institutions and civil society organizations working on the topic. Meanwhile, groups 2 and 3 are in the process of devising public immigration policies.

62. We would also point out that the Coordination Mechanism took part in the Climate Summit held in the city of Cochabamba in April 2010, where work took place in groups focusing on the causes and consequences of climate migration, referring to climate refugees, forced migrants and persons displaced by climate change.

63. The Coordination Mechanism has established the following objectives:

- (a) To implement a return plan for Bolivians who are outside the country;
- (b) To promote political participation, inclusion and cultural participation of Bolivians abroad;
- (c) To support Bolivians in spreading the culture of the various nationalities abroad and cementing relations with the new generations of Bolivians born outside the country;

- (d) To devise and implement social, legal and production support programmes for family members with migration experience;
- (e) To foster discussion and critical debate on models of co-development and productive use of remittances;
- (f) To devise policies on labour migration processes.<sup>17</sup>

64. We would also inform the Committee that on 25 and 26 October 2010 the Tenth South American Conference on Migration (CSM) was held in Tiquipaya, Cochabamba, Bolivia, attended by 12 countries: Argentina, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela (Bolivarian Republic of), along with Bolivia, which held the temporary presidency. The points discussed were related to the Declaration of Principles and Overall Guidelines of the CSM, the South American Human Development Plan of Migration, relations with UNASUR, position on the Global Forum (Puerto Vallarta, November 2010) and places were made available for the participation of civil society on migration, environment and climate change.

65. An act of agreements and commitments made by participating countries was also signed at the South American Conference on Migration, thereby approving the Conference Declaration of Principles and Overall Guidelines, and the South American Human Development Plan of Migration, which through eight programmes will allow member nations to develop policies that promote a better quality of life for migrants. The Conference also endorsed the importance of the participation of representatives of civil society and social movements, particularly migrant associations. On the issue of regularization it was agreed that Member States should implement flexible and effective mechanisms to regularize migration for citizens of countries of the region, and that countries outside the region receiving South American migrants should implement procedures to regularize migration. Finally, regarding deportation policies, it was agreed that CSM Member States should undertake to avoid deporting citizens of the regions on account of their migration; they should give preference to coordination mechanisms and agreements to achieve that end.<sup>18</sup>

#### **D. Measures to disseminate and promote the Convention**

66. The present Government has highlighted the national human rights action plan, entitled "Bolivia: Dignity for a Good Life 2009–2013", Supreme Decree No. 29851,<sup>19</sup> which in Chapter 5 "Rights of Vulnerable Groups—Rights of Migrants, Rights of Migrants in Bolivia and Rights of Refugees in Bolivia", sets out policies and measures designed to protect the human rights of migrants and refugees; these measures involve direct and coordinated work with public institutions, civil society groups and representatives of international organizations working in the field of migration.

67. One of the public policies on human rights concerns the dissemination of the rights of migrants, and therefore many Government departments, including the Vice-Ministry of Justice and Fundamental Rights of the Ministry of Justice, held training workshops in 2010 on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, for public servants and representatives of civil society

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<sup>17</sup> Information provided by the Department of Consular Affairs—Vice-Ministry of Foreign Affairs, Ministry of Foreign Affairs of Bolivia.

<sup>18</sup> Source: Ministry of Foreign Affairs, [www.rree.gob.bo/](http://www.rree.gob.bo/).

<sup>19</sup> The national human rights action plan is a manifestation of the present Government's commitment to the promotion and exercise of human rights, bearing in mind that the ultimate goal of the process of democratic revolution and decolonization is the transformation of the Bolivian State.



organizations working in the field of migration. Participants learned about the Committee's observations and recommendations on the initial report of the Bolivian State on the Convention.

68. Since 2007 the Ombudsman's Office has been carrying out awareness-raising and training campaigns on the Convention and the human rights of migrants, aimed mainly at public servants of the executive, legislature and judiciary as well as authorities of departments and municipalities, mainly those bordering on Argentina, Peru, Chile and Brazil. The training also included grassroots and community organizations; this work has been taking place once a year since 2007, with attendances in each place of 30 to 50 (average 40).

69. Also, in order to optimize institutional resources and for the same target audience, events organized by the Ombudsman's Office have included other issues related to migration, such as trade and trafficking in human beings, and refugees. In late 2009 in Pisiga (on the Chilean border), a working group was set up on migration and trafficking, consisting of indigenous authorities, public servants of border posts and other local authorities. Also, in 2008 and 2009, the same course was given to officers of the Bolivian national police, family protection units, INTERPOL, public security, planning and operations, the gender unit, identification, etc.

70. In 2010, the Ombudsman gave the course to border officials at Guayaramerín (bordering on Brazil), Cobija (bordering on Brazil), Desaguadero (bordering on Peru), Puerto Suárez (bordering on Brazil) and to public servants in the department capitals of Chuquisaca, Potosí (bordering on Argentina) and Pando.

71. The Ombudsman's Office circulated the recommendations and observations of the Committee among the bodies of the executive and judiciary, autonomous departmental and municipal governments, accompanied by letters reminding them of their duties, which led some public institutions to take account of the observations and recommendations in their strategic and annual plans.

72. Furthermore, the Autonomous Municipal Government of La Paz, aware of the effects of migration, set up a platform for migrant support services, providing the following services:

- (a) Business Support Office. Provides advice in the office, online and via personalized e-mails on management, production, marketing and finance;
- (b) Training and support for potential entrepreneurs. Provides motivation and entrepreneurship courses, devising business concepts and developing a business plan;
- (c) Training and support for micro and small enterprises. Provides training services, coaching in business management and technical assistance.

73. Also, in 2010 a degree course in migration and public management was held at the Plurinational Public Management College (EGPP), for public servants interested in training on migration issues.

#### *Research on migration*

74. The Ombudsman's Office has conducted the following research on migration:

- (a) Study on migration and population displacement outside the country;
- (b) Study of Bolivian immigration in Madrid;
- (c) Comparison of migration regulations;
- (d) The human rights status of immigrants and domestic migration law.

75. Also, under the inter-institutional agreement with the Academy, the Ombudsman's Office fostered and contributed to seven research projects on migration in Santa Cruz, La Paz, Cochabamba and El Alto, with the aim of providing important information on the need for public policy, the situation of families who stay and those who decide to emigrate, remittances and the need for a comprehensive approach on the issue.<sup>20</sup>

76. The Vice-Ministry of Justice and Fundamental Rights of the Ministry of Justice prepared a case study on migration experiences outside and within the country, in order to collect migrants' personal accounts of their experiences of migration as input for improving public migration policy.

### **III. Specific provisions of the Convention**

#### **A. General principles**

##### **Articles 1 (Principle of non-discrimination) and 7**

77. Article 14, paragraph II, of the Constitution states that the Bolivian State prohibits and punishes all forms of discrimination based on sex, colour, age, sexual orientation, gender identity, origin, culture, nationality, citizenship, language, religious creed, ideology, political or philosophical affiliation, marital status, economic or social condition, type of occupation, degree of education, disability, pregnancy or other condition whose purpose or result is to nullify or undermine the recognition, enjoyment or exercise, under conditions of equality, of the rights of all persons.<sup>21</sup>

78. The Act against racism and all forms of discrimination (Act No. 045) has also been promulgated, which promotes dignity, equality, respect, harmony, inclusion, social and gender equity, the common good and solidarity between Bolivians. It also prohibits and punishes all forms of racism and discrimination on grounds of sex, colour, age, sexual orientation, gender identity, origin, culture, nationality, language, religious creed, ideology, political or philosophical affiliation, marital status, economic or social condition, type of occupation, degree of education, disability, pregnancy or other condition.<sup>22</sup>

79. The Ministry of Labour is currently drafting the Labour Bill, which requires mandatory compliance with all international labour conventions that have been ratified in accordance with the procedures outlined by the Constitution. It also mentions the right to decent work, stating that everyone has the right to decent work, with industrial safety and occupational health, without discrimination and with fair and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity; he is also entitled to a stable source of work, under equitable and satisfactory conditions.

##### **Article 83 Right to an effective remedy**

80. The Constitution mentions the right to remedy that can be fully exercised by victims;<sup>23</sup> accordingly, the present Government guarantees that any person whose rights have been violated is entitled to an effective remedy before a domestic court.

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<sup>20</sup> External note: DP-PE-823/2011 dated 16 March 2011 (Ombudsman's Office).

<sup>21</sup> Act No. 045 of 8 October 2010, article 14.

<sup>22</sup> *Ibid.*, art. 16.

<sup>23</sup> Constitution, art. 113: "I. Violation of the rights entitles victims to claim compensation, redress and

**Article 84****Duty to implement the provisions of the Convention**

81. As mentioned above, Bolivia implements the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, since it has ratified this international treaty and it therefore has the force of law.<sup>24</sup>

82. Not only does the international human rights law enshrined in international instruments ratified by the Plurinational State of Bolivia form an integral part of domestic law, but it is also directly enforceable by the competent authorities, and has constitutional status in accordance with the provisions of article 257, paragraph I, of the Constitution: "Ratified international treaties are part of the domestic legal system and have the rank of law."

**B. Human rights of all migrant workers and members of their families****Article 8****Right to leave any country, including one's own, and to return**

83. The Constitution provides that Bolivians have the right to freedom of residence, abode and movement in all of Bolivia, including leaving and entering the country.<sup>25</sup> In this regard while this article specifies some restrictions on the right of free movement of persons, as it refers to "Bolivians", it should be clarified that Supreme Decree 24423 regulates the entry and exit of migrants into and out of Bolivia, specifying the agencies and means of effectively controlling migration and tourism.

84. Furthermore, under article 125 of the Constitution, any person believing his life to be in danger, to have been unlawfully prosecuted, wrongfully tried or deprived of his liberty may bring a habeas corpus action, orally or in writing, in person or through any other person acting on his behalf, without the need for legal formalities, before any judge or court empowered to hear criminal cases, and request that his life be protected, the wrongful prosecution be stopped, legal formalities be re-established or his right to freedom be restored.

**Articles 9 and 10****Right to life, prohibition of torture, prohibition of cruel, inhuman or degrading treatment**

85. Article 15 of the Constitution enshrines the right to life and physical, psychological and sexual integrity. It provides that no one may be tortured or subjected to cruel, inhuman, degrading or humiliating treatment and that there is no death penalty. It guarantees that everyone, in particular women, has the right to be free from physical, sexual or psychological violence, both within the family and in society. As a result, the State is required to take the necessary steps to prevent, eliminate and punish gender-based and generational violence, and any act or omission intended to debase the human condition or

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damages through appropriate channels. II. Where the State is ordered to pay damages, an action claiming restitution must be brought against the public authority or servant responsible for the act or omission that caused the damage."

<sup>24</sup> *Ibid.*, art. 256, paras I and II: "Moreover, any international human rights treaties or instruments that the State has signed, ratified or acceded to, which stipulate rights more favourable than those contained in the Constitution, shall prevail over the latter. [...] The rights recognized in the Constitution shall be construed in accordance with international human rights treaties where they provide for more favourable rules."

<sup>25</sup> *Ibid.*, art. 21, para. 7.

cause death, pain and physical, sexual or psychological suffering, in either the public or private spheres. Finally, it states that no one may be subjected to enforced disappearance through any cause or circumstance.

86. Torture and ill treatment are also prohibited under article 144 of the Constitution, which states:

"I. All forms of torture, disappearance, confinement, coercion, extortion or other form of physical or moral violence are prohibited. Public servants or authorities who commit, instigate or consent to such acts shall be removed from office, without prejudice to such penalties as may be applicable under the law.

II. Statements, acts or omissions obtained or made as a result of torture, coercion, extortion or any other form of violence shall be null and void ab initio."

87. The Constitution of the Plurinational State of Bolivia clearly also guarantees personal integrity and prohibits torture, any procedure that is inhuman or degrading or involves physical or moral violence, and disappearances.

88. In 2010 the Ministry of Justice prepared an assessment of the situation of torture in Bolivia, for the drafting of the second to fourth periodic reports to the Committee against Torture. It is also coordinating with public institutions, human rights organizations and others, the implementation of public policies and handling of cases of torture, cruel, inhuman or degrading treatment, and disseminating the draft bill to implement the National Preventive Mechanism (NPM) in various departments of Bolivia.

#### **Article 11**

##### **Prohibition of slavery and forced labour**

89. Article 15, paragraph V, of the Constitution prohibits slavery and forced labour in Bolivia, as well as trade and trafficking in human beings, and article 23, paragraph I, states that everyone has the right to liberty and security of person. The article applies equally to both Bolivians and foreigners.

90. By Supreme Decree No. 19777 of 13 September 1983, the Bolivian State ratified the Slavery Convention<sup>26</sup> and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

91. Furthermore, article 46, paragraph III, of the Constitution, which deals with the right to work and employment, prohibits all forms of forced labour and similar modes of exploitation which oblige a person to perform work without his or her consent and without fair and reasonable compensation.

92. Internationally, Bolivia has ratified 48 conventions with the International Labour Organization (ILO). Accordingly, Bolivia is a party to Convention No. 29 concerning Forced or Compulsory Labour, of 1930<sup>27</sup> and Convention No. 105 concerning the Abolition of Forced Labour, of 1957.<sup>28</sup>

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<sup>26</sup> Slavery Convention, signed in Geneva on 25 September 1926. Entry into force: 9 March 1927, in accordance with article 12. Mexico has been a party since 3 February 1954.

<sup>27</sup> ILO Convention 29 was ratified by Bolivia on 31 May 2005.

<sup>28</sup> ILO Convention 105 was ratified by Bolivia on 11 June 1959.

**Articles 12, 13 and 26****Freedom of expression; freedom of thought, conscience and religion; the right to join freely any trade union**

93. Freedom of thought, conscience and religion is guaranteed in article 21, paragraph 3, of the Constitution; this freedom may be expressed individually or collectively, in public or private, so that individuals are free to practise the religion of their choice, for lawful ends.

94. Likewise, article 21, paragraph 5, guarantees the right to freedom of expression and to disseminate thoughts or opinions freely by any means of communication, whether oral, written or visual, individually or collectively.

95. Furthermore, article 107, paragraph II, of the Constitution provides that the State guarantees Bolivians the right to freedom of expression, opinion and information, rectification and reply, and the right to express ideas freely through any media without prior censorship.

96. Thus, the Plurinational State of Bolivia guarantees freedom of worship, religious freedom or freedom of conscience, as a fundamental right, allowing each person freely to choose their religion, to choose none or not to believe or assert the existence of a God (atheism and agnosticism) and to exercise that belief publicly, without being a victim of oppression, discrimination or any attempt to change it.

97. The Plurinational State of Bolivia has legally recognized the existence of various faiths and religions other than Catholicism, which remains the predominant faith in Bolivia. For instance, article 4 of the Constitution states that the Bolivian State respects and guarantees freedom of religion and spiritual beliefs, according to their world views, and the State is independent of religion.

98. In addition, freedom of assembly and association in public and private, for lawful ends, is guaranteed by article 21, paragraph 4, of the Constitution. There are no provisions in domestic legislation expressly restricting that right.

99. Finally, the State recognizes and guarantees the right of workers to organize unions in accordance with the law, as per article 51, paragraph I, of the Constitution. The right is guaranteed in domestic legislation, such as the General Labour Act.

**Articles 14 and 15****Prohibition of arbitrary or unlawful interference with privacy, family, home, correspondence or other communications, prohibition of arbitrary deprivation of property**

100. Article 25 of the Constitution stipulates that all persons have the right to the inviolability of their home and the confidentiality of all forms of private communication, in the absence of a court order. In addition, all correspondence, private papers and private statements in any medium are inviolable and may not be confiscated except in cases established by law for the purposes of a criminal investigation, subject to a written order from a competent judicial authority. It further establishes that no public authority or any person or organization may intercept private communications or conversations by installing equipment to monitor or divert them. And finally information and evidence obtained by violating any form of correspondence or communication has no legal effect.

101. As can be seen, the Constitution guarantees the inviolability of the home, private and intimate life of those living in a home, and protects not only physical violations of the home and sanctions any interference in the sphere of private life taking place in the physical space of the home.

102. Regarding the provisions of article 15 of the Convention, no migrant worker can be arbitrarily deprived of his property, as in Bolivia any individual or group has the right to

own private property individually or in association with others, provided that it fulfils a social function. Property may be expropriated on grounds of public necessity or interest, provided that it is done in accordance with the law and subject to fair compensation.

**Articles 16 (paras 1 to 4), 17 and 24**

**Right to liberty and security of person, protection against arbitrary arrest or detention, recognition as a person before the law**

103. The right to liberty is enshrined in article 22 of the Constitution, which states that the dignity and freedom of the person are inviolable. To respect them and protect them is a primary duty of the State.

104. Likewise, article 23, paragraph 1, of the Constitution guarantees the right of everyone to personal freedom and security. Personal freedom may be restricted only within the limits prescribed by law, to ensure that historical truth is revealed in the proceedings of judicial bodies. This provision is confirmed by article 221 of the Code of Criminal Procedure, which states that personal liberty and the other rights and guarantees accorded under the Constitution and the international conventions and treaties in force, may be restricted only where this is essential to ensure that the truth is established, the proceedings follow their course and the law is applied.

105. Article 23, paragraph 2, of the Constitution states that custodial measures for adolescents shall be avoided. All adolescents who are deprived of their liberty shall receive priority attention from the judicial, administrative and police authorities. These authorities shall ensure that their dignity is respected at all times and that their identity is not disclosed. They shall be held in areas separate from adults, taking into account the needs of their age.

106. Paragraph 3 also states that no one may be held, arrested or deprived of liberty, except in the cases and according to the forms prescribed by law. The necessary warrant must be issued by the competent authority and served in writing. This provision is confirmed by article 221 of the Code of Criminal Procedure (CPP), which provides that the rules authorizing measures that restrict rights shall be applied and interpreted in accordance with article 7 of the CPP. Such measures shall be authorized by a substantiated judicial decision, as regulated by this Code, and shall apply only for as long as they are necessary. The defendant's liberty may not be restricted in order to guarantee the payment of civil damages, costs or fines.

107. Paragraph 4 provides that any person caught in flagrante *delicto* may be arrested by any other person, even without a warrant, for the sole purpose of being brought before a competent judicial authority, who must resolve his legal situation within 24 hours. Article 230 of the Code of Criminal Procedure states that flagrante *delicto* is considered to apply where the perpetrator is caught attempting to commit or committing the act, or immediately thereafter while being pursued by police, the victim or witnesses to the crime.

108. Paragraph 5 provides that when any person is deprived of their liberty they are to be informed, at the time of their arrest, of the reasons for their detention and the charges against them. Article 296 of the Code of Criminal Procedure provides that where the Code authorizes suspects to be arrested, police officers must act in line with the following basic principles: inform the person, at the time of arrest, of the reason for the arrest, and that he has the right to remain silent without penalty, and to appoint counsel.

109. Article 23, paragraph 6, of the Constitution states that those responsible for prisons must keep a register of detainees. They are not receive any person without copying the relevant warrant into the register. Failure to comply will result in prosecution and penalties prescribed by law. This paragraph is consistent with article 296, subparagraph (8), of the CPP, which states that Police officers are to act in line with the following basic principles: note the date and time of the arrest in an unalterable register. In this regard, article 102 of the Code for

Children and Adolescents of 14 October 1999 mentions freedom of movement, stating that no child or adolescent may be detained, arrested or subpoenaed unless the measure is ordered by a juvenile court in accordance with the provisions of the Code.

110. In Title II, Chapter V, Section IX, entitled: "Rights of Persons Deprived of their Liberty", articles 73 and 74 of the Constitution state that all persons deprived in any way of their liberty shall be treated with due respect for human dignity. All detainees also have the right to communicate freely with their counsel, interpreter, family members and other persons. Confinement is prohibited. Any restrictions on communication may be made only in the context of investigations into offences, and may last no more than twenty-four hours.

111. Article 233 of the Code of Criminal Procedure<sup>29</sup> lays down requirements for preventive detention. Also, the principle of criminal procedural law underlying the above-mentioned Code establishes due process guarantees.

112. With regard to treatment of detainees, article 237 of the Code of Criminal Procedure states that persons held under preventive detention are to be interned in special establishments, different from those used for sentenced persons, or at least in separate sections from those provided for the latter, and at all times be treated as innocent persons detained solely to ensure the proper conduct of criminal proceedings. Preventive detention must take place in the prison facility of the place where the action is pending.

113. We would point out that the powers to investigate and monitor foreigners in Bolivia, including migrant workers, are exercised through the Directorate-General of Migration. Such controls must be carried out in compliance with the applicable law and with full respect for migrants' human rights.

114. In this regard, the Directorate-General of Migration, through the Department of Inspections and Settlement, is responsible for planning, implementing and monitoring programmes for optimum control of aliens who are in transit through the country and those who are entitled to stay on a temporary or permanent basis, as per article 20 of Supreme Decree 24423.

115. Pursuant to article 20 of Supreme Decree 24423, the Directorate-General of Migration does not intern any foreign nationals, because this would be tantamount to detention and confinement, and therefore merely takes the foreign national in question into custody. The grounds for expelling a foreign national are set out in Chapter VII, article 48 of Supreme Decree 24423 (Immigration Regime).

116. The Department of Inspections and Settlement uses the following procedure for expelling a foreign national:

(a) Documentation Stage. The person in custody and/or the embassy (consulate) of the country of origin is asked for documentation to substantiate his identity. The duration of this stage depends on how long the embassy of the country of origin of the foreign national takes to provide the documentation.

(b) Administrative Decision. If the foreign national has been found undocumented and has committed an act against the Bolivian State as per article 48 of

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<sup>29</sup> Article 233 states: "Once the formal charge is laid, the judge may order the pretrial detention of the accused, in response to a reasoned request from the prosecutor or the plaintiff, subject to the following conditions:

1. The existence of clear and convincing evidence that the accused is probably the perpetrator or participant in a punishable act; and
2. The presence of clear and convincing evidence that the accused will fail to appear in court or will impede the ascertainment of the truth." (Act No. 1970 of 25 March 1999).

Supreme Decree 24423, he or she will be expelled from Bolivia under an Administrative Decision presented by the Department of Inspections and Settlement.

(c) If the foreign national originates from a neighbouring country, the Directorate-General of Migration will take him or her to the closest border with his or her country. If the foreigner is from a country that is not in geographical proximity to Bolivia, a passage will be arranged through his or her embassy to expel him or her to his or her country of origin.

(d) The official of the Bolivian Inspectorate of Migration will hand over the foreign national, together with the documentation obtained, to the body responsible for migration of the country of origin or neighbouring country.

117. During the documentation stage, while the foreign national is in custody he or she is to be allowed to communicate freely with the Consul of his or her country of origin. Also, for the duration of custody, the foreign national is to be provided with accommodation and food (lunch and dinner), personal hygiene facilities, health care, the right to receive visits, access to legal assistance, environments complying with safety requirements, storage facilities for personal effects, access to efficient means of communication, care for children and women and treatment appropriate to the migrant population. This complies with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (prin.5) and the International Covenant on Civil and Political Rights (art. 10) and ensures that they are treated humanely and with due respect for the inherent dignity of the human person.<sup>30</sup> Foreign nationals in custody enjoy full exercise of the human rights and fundamental freedoms enshrined in the Declaration of Human Rights and other international human rights instruments.

118. Lastly, with regard to article 24 of the Convention, all persons in the Plurinational State of Bolivia—whether nationals or foreigners—have the right to recognition as a person before the law. In other words, they are entitled to perform actions and execute contracts within the framework of the Civil Code.

#### **Articles 16 (paras 5 to 9), 18 and 19 Right to due process**

119. Article 109 of the Constitution states that all the rights recognized in the Constitution are directly applicable and guarantees that they are equally protected. Rights and their guarantees are governed solely by the law.

120. Article 115 of the Constitution clearly states that everyone has the right to the timely and effective protection of the judges and courts in the exercise of their rights and legitimate interests, and that the State is to guarantee the right to due process, the right to a defence and the right to a system of justice that is plural, swift, timely, free, transparent and administered without delay.

121. Consistent with the above, article 5 of the Code of Criminal Procedure states that the defendant may exercise all the rights and guarantees accorded to him under the Constitution, the international conventions and treaties in force, and the Code of Criminal Procedure from the first act in the proceedings to their completion. And that any person believed to have committed an offence has the right to be treated with due respect for his dignity as a human being.

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<sup>30</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (prin. 5). International Covenant on Civil and Political Rights. (Art. 10).



122. Article 120, subparagraph II, of the Constitution states that every person has the right to be tried in their own language; in exceptional circumstances, the presence of a translator or interpreter may be required.

123. Article 110 of the Code of Criminal Procedure complements the above, noting that a defendant who does not understand Spanish shall have the right to choose a translator or interpreter to assist him in all acts necessary for his defence. If the defendant does not exercise this right or does not have the means to do so, a translator or interpreter shall be appointed by the court.

124. In addition, Bolivia guarantees the right to be assisted and defended by a lawyer from the first act of the proceedings until the sentence has been served. This right may not be waived, and defence counsel is to be appointed without any delay or formality at the time of arrest or detention or before the defendant begins to make a statement. If the defendant, when consulted, does not choose a lawyer or if the lawyer chosen does not immediately accept the brief, a defence counsel is to be appointed by the court. This provision is in article 9 of the Code of Criminal Procedure.

125. In relation to the above, article 119, paragraph II, of the Constitution clearly states that everyone has the inviolable right to a defence. Accordingly, where accused or charged persons lack the necessary means the State is to provide a counsel free of charge.

126. Article 108 of the Code of Criminal Procedure states that the services of the state defender of the accused are exempt from judicial, administrative or police charges, stamps, stamped paper or duty for preparing statements, certified copies, certificates or any other charges.

127. Article 117 of the Constitution stipulates that:

(a) No one may be convicted without having been heard and tried in accordance with the principles of due process. No one may be given a criminal conviction unless it has been handed down by a competent judicial authority as an enforceable judgement;

(b) No one may be tried or convicted more than once for the same offence. Restricted rights must be restored immediately upon completion of the sentence;

(c) Custodial sentences may not be imposed for debts or financial obligations, except in the cases established by law.

128. Article 274 of the Code of Criminal Procedure states that where a sentence is reviewed on account of a judicial error and the accused is acquitted or a lesser sentence is imposed, he or his heirs are to be compensated for the time actually spent in prison or deprived of rights, and any fines unduly paid are to be reimbursed. The same principles are to apply also in the case of the review of a security measure.

129. Article 275 of the Code of Criminal Procedure states that a wrongfully convicted person may elect to claim compensation in the same proceedings or in others, as appropriate. In the former case, the judge or the court concerned shall determine the compensation on the following basis: one day of a custodial sentence, or compliance with a security measure involving custody or disqualification resulting in suspension from an professional occupation, is equivalent to one day of salary or income received by the injured party.

130. Where a foreigner is arrested, he or she is entitled to request the judicial and/or police authority to notify immediately the consulate of his or her country of origin. In accordance with international rules, the authorities of the host country are required to notify the detention to the consular office and check that the detained alien is undergoing due process and is being assisted by counsel. This complies with the provisions of the Vienna Convention on Consular Relations of 1963.

131. Regarding article 18, paragraph 1, of the Convention, article 120, paragraph I, of the Constitution states that everyone is entitled to a hearing by a competent, independent and impartial judicial authority, and may not be tried by special commissions or turned over to judges other than those designated before the offence was committed, thus guaranteeing the principle of natural judgment.

132. Likewise, the principle is enshrined in article 2 of the Code of Criminal Procedure, which states that no person shall be tried by special commissions or tribunals or turned over to jurisdictional bodies other than those designated under the Constitution and the law, before the offence was committed.

133. Regarding article 16, paragraph 2, of the Convention, the Bolivian State guarantees the presumption of innocence, as per article 116 of the Constitution. Where there is doubt during the proceedings regarding the applicable law, the one that is most favourable to the accused or defendant must be applied, and any penalty must be based on a law in effect prior to the punishable act.

134. Likewise, article 6 mentions the principle of presumption of innocence, as follows: every defendant shall be presumed innocent and be treated as such at all times until declared guilty in an enforceable judgement. The defendant may not be obliged to testify against himself and his silence shall not be used against him. The burden of proof lies with the accusers and any presumption of guilt is prohibited. In the case of persons in contempt of court, only information necessary for their apprehension shall be published.

135. Regarding article 16, paragraph 3, of the Convention, article 10 of the Code of Criminal Procedure guarantees an interpreter for the accused, as follows: A defendant who does not understand Spanish shall have the right to choose a translator or interpreter to assist him in all acts necessary for his defence. If the defendant does not exercise this right or does not have the means to do so, a translator or interpreter shall be appointed by the court.

136. Also, in accordance with articles 8 and 9 of the Code of Criminal Procedure, the accused may opt for one of two types of defence: substantive defence, whereby the defendant, without prejudice to expert defence, has the right to defend himself, to intervene in all acts of the proceedings that involve evidence, and to make such requests and comments as he may deem fit, and expert defence, whereby every defendant has the right to be assisted and defended by a lawyer from the first act in the proceedings until the sentence has been served. This right may not be waived. Defence counsel is to be appointed without any delay or formality at the time of arrest or detention or before the defendant begins to make a statement. If the defendant, when consulted, does not choose a lawyer or if the lawyer chosen does not immediately accept the brief, a defence counsel shall be appointed by the court.

137. And according to article 121, paragraph I, of the Constitution State, no person may be compelled to testify against himself in a criminal trial or against blood relatives up to the fourth degree inclusive, or in-laws up to the second degree. He also has the right to remain silent, which may not be interpreted as a sign of guilt.

138. Regarding article 16, paragraph 4, of the Convention, the Constitution devotes a whole section to the Rights of Children, Adolescents and Young Persons, which lays emphasis on the best interests of the child and guarantees the protection and promotion of young people and their active participation in productive, political, social, economic and cultural affairs, without any form of discrimination whatsoever.

139. Article 85 of the Code of Criminal Procedure states that, where the accused is a minor, those exercising parental authority or his guardian may act in his defence in the proceedings, without prejudice to his acting himself. If parental responsibility is exercised by the father and mother, they are to act as a single representative. Any conflict that may

arise between them is to be resolved by the judge or court trying the case. Where the minor has no legal representation, there must be a state representative to protect the child, on pain of nullity.

140. Regarding article 16, paragraph 5, of the Convention, articles 394 and 396 of the Code of Criminal Procedure stipulate that judicial decisions are subject to appeal in the cases expressly provided for by the Code, and that the right of review is available only to persons to whom it is expressly accorded, including the victim even without having the status of plaintiff.

141. Article 113 of the Constitution guarantees the right of victims to compensation in the event of judicial error, improper administration of justice, acts that may have led to the imprisonment of an innocent party or to their arbitrary detention. It therefore states that violation of the rights entitles victims to claim compensation, redress and damages through appropriate channels. Where the State is ordered to pay damages, an action claiming restitution must be brought against the public authority or servant responsible for the act or omission that caused the damage.

142. Regarding article 16, paragraph 7, of the Convention, article 4 of the Code of Criminal Procedure refers to the principle of once-only criminal prosecution, noting that no one is to be tried or convicted more than once for the same act, even in the event of a new description of the offence or alleged new circumstances. An enforceable judgment handed down abroad regarding acts which may be brought before domestic courts will be considered *res judicata*.

143. Regarding article 19 of the Convention, article 123 of the Constitution states that the law must take effect in the future and cannot have retroactive effect, except in labour matters provided that it expressly benefits the worker, and in criminal matters provided that it benefits the offender.

#### **Article 20**

##### **Prohibition of imprisonment, deprivation of authorization of residence or work permit or expulsion merely on the ground of failure to fulfil an obligation arising out of a work contract**

144. There is no imprisonment for debt in Bolivia, either for nationals or for foreigners. Article 117, paragraph III, of the Constitution states that custodial sentences may not be imposed for debts or financial obligations, except in the cases established by law.

145. Migrant workers are not deprived of their authorization of residence or work permit or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract.

#### **Articles 21 to 23**

##### **Protection from confiscation and/or destruction of identity and other documents; protection from collective expulsion; right to have recourse to the protection and assistance of the consular or diplomatic authorities**

146. The Directorate-General of Migration is the only institution responsible for implementing and enforcing the rules and procedures relating to immigration control, under the leadership of the Ministry of the Interior.

147. On the subject of confiscation and destruction of documents, article 25, paragraph II, of the Constitution guarantees the inviolability of private papers, which may not be confiscated except in cases established by law for the purposes of a criminal investigation, subject to a written order from a competent judicial authority.

148. In practice, the Directorate-General of Migration, through the relevant authority, carries out on-the-spot confiscations of the personal documents of nationals and foreigners only where travel documents have been adulterated, smudged, scratched or mutilated, lack a signature or stamp of the competent authority or the pages have come apart, pursuant to articles 101 and 102 of Supreme Decree 24423. Also, in justified cases, the relevant authority may order the detention of the holder to hand him over to the Departmental Administration under its jurisdiction.

149. Regarding article 22 of the Convention, we would inform the Committee that the internal rules in force refer only to the expulsion of an alien from the country, and not to collective expulsions.

150. For expelling a foreign national, the Department of Inspections and Settlement uses the procedure described under article 16.

#### **Articles 25, 27 and 28**

##### **Principle of equal treatment in respect of remuneration and other conditions of work and terms of employment, and social security; right to receive urgent medical care**

151. Article 14, paragraph VI, of the Constitution guarantees equal rights for Bolivians and foreigners. Regarding social and economic rights, article 46 of the Constitution states that all persons have the right:

(a) To decent work, with occupational health, hygiene and safety, without discrimination, and with fair, equitable and satisfactory remuneration or wages that will ensure a decent standard of living for themselves and their families;

(b) To a stable source of work, under equitable and satisfactory conditions.

152. Furthermore, subparagraphs II and III of article 49 read as follows: The law shall regulate labour relations in respect of collective agreements and contracts, general and sectoral minimum wages and wage increases, reinstatement, paid leave and holidays, the calculation of seniority, working hours, overtime, differentials for Sunday or night work, Christmas bonuses, share issues, bonuses, and other systems of profit-sharing, indemnities and severance pay, working mothers, vocational and further training and other social rights. The State shall protect stable employment. Unfair dismissal and all forms of harassment at work are prohibited. The law shall lay down appropriate penalties.

153. Supreme Decree 24423 is the current text governing migration in Bolivia, and pursuant to articles 53 to 55, which regulate the issue of work permits to foreigners, authorizations for temporary residence, permanent residence, asylum status or refugee status must allow foreigners to work as self-employed persons or for others.

154. Regarding health care, according to article 35 of the Constitution, the State at all levels is to protect the right to health by promoting public policies designed to improve the quality of life, common welfare and free access for the population to health services. Furthermore, article 41 of the Constitution provides that the State guarantees public access to medicines.

#### **Articles 29, 30 and 31**

##### **Rights of children of migrant workers to a name, registration of birth and nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant workers and members of their families**

155. Article 141 of the Constitution stipulates that Bolivian nationality is acquired by birth or by naturalization. People born in Bolivia are Bolivians by birth.

156. Article 96 of the Code for Children and Adolescents states that a child's or young person's right to an identity includes the right to a personal, individual name, to two family

names - the father's and the mother's - to a nationality, to know who his or her biological parents are and to be informed about his or her family background.

157. Furthermore, article 97 of the Code for Children and Adolescents states that all children must be registered with the Civil Registry Office immediately after birth, a birth certificate must be issued free of charge, and they have a right to a name which will not give grounds for discrimination under any circumstances.

158. Regarding the provisions of article 30 of the Convention, in articles 17 and 77 to 90 of the Constitution, Bolivia guarantees education for any person—whether Bolivian or foreign—residing in the country and states that all are entitled to receive a universal, productive, free, integrated and intercultural education at every level, without discrimination.

159. Education constitutes one of the highest functions and a prime financial responsibility of the State, which has the binding obligation to support, guarantee and manage it. The State and society have the role of full guardians of the education system, which comprises normal, alternative and special education and higher vocational education. Educational processes are based on the criteria of harmony and coordination. The education system comprises State and private educational establishments and those run by the Catholic Church.

160. Also, with the enactment of the "Avelino Siñani and Elisardo Perez" Education Act,<sup>31</sup> education in Bolivia is unitary, public, universal, democratic, participatory, community-based, focused on decolonization, of good quality, and intracultural, intercultural and multilingual throughout the system. The education system is based on education which is open, humanist, scientific, technical and technological, productive, territorial, theoretical and practical, liberating and revolutionary, critical and imbued with solidarity. The State guarantees vocational education and humanist technical instruction for men and women which is related to life, work and productive development. Education promotes a sense of civic responsibility, intercultural dialogue and moral/ethical values. Values are to encompass gender equity, the lack of differentiation in roles, rejection of violence and full applicability of human rights.

161. Regarding the provisions of article 31 of the Convention, a new aspect introduced by article 98, subparagraph 1, of the Constitution is cultural diversity, which constitutes the essential basis of the communitarian plurinational State. Interculturalism is the means for securing cohesion and harmonious and balanced relations among all peoples and nations. Interculturalism entails equality and respect for differences.

### **Articles 32 and 33**

#### **Right to transfer earnings, savings and personal effects and right to be informed**

162. Regarding the transfer of income, the Plurinational State of Bolivia is currently conducting a detailed analysis for Bolivia to join the Andean Labour Migration Instrument (Decision 545) which stipulates that member States are to guarantee Andean migrant workers the freedom to transfer money earned from work.

163. In Bolivia the transfer of earnings is regulated by the Act on banks and financial institutions, controlled by the former Superintendence of Banks and Financial Entities (now the Supervisory Authority of the Financial System—ASFI). Article 39 of Act No. 1488 of 14 April 1993 offers the same guarantees. The Bolivian Government does not impose any restrictions on international funds transfers and has striven to make the service more efficient.

<sup>31</sup> Act No. 070 of 20 December 2010.

164. The Bolivian Supervisory Authority of the Financial System (ASFI), in coordination with the Central Bank of Bolivia, has been working on the Regulation on the Sending and Receipt of Remittances.<sup>32</sup>

165. The transfer of personal effects and other belongings by migrant workers on termination of their stay in Ecuador is provided for in the Customs Act, Act No. 1999 of 28 July 1999, which stipulates that there is no obstacle to such transfer, and provides a simple procedure.

166. Regarding article 33 of the Convention, the General Labour Act of 8 December 1942 contains general provisions regarding labour rights and obligations. With regard to means of disseminating information, the Ministry of Labour publishes the resolutions and other regulations relating to the treatment of migrant workers through mass media easily accessible to the general public. The same information is provided orally to anyone who requests it.

## C. Part IV of the Convention

### Article 37

#### **Right to be informed before departure of the conditions of admission to the State of employment and of remunerated activities**

167. The dissemination of reliable, objective and timely information on immigration policies and procedures enables people who wish to emigrate to make informed and genuine decisions. This information can be found on various websites of public institutions, including civil society organizations. Specifically, the site of the Directorate-General of Migration<sup>33</sup> publishes the requirements for foreigners to be admitted to and stay in Bolivia, depending on their nationality and the activity they plan to carry out in the country.

168. Also, the Ombudsman's Office, in partnership with the Human Mobility Pastoral in Bolivia,<sup>34</sup> in line with its mandates to support migrants' rights, has published a resource guide for migrants entitled "Derechos Humanos de las Personas Migrantes, Ninguna Persona es Ilegal" (Migrants' human rights, no one is illegal). The guide was published to ensure that citizens are properly informed before taking the decision to migrate. The content is clear and relevant to anyone thinking of leaving the country and who has relatives abroad, and it has been widely circulated. The guide sets out:

- (a) The rights and duties of migrants;
- (b) Recommendations before travelling abroad;
- (c) Undocumented migrants and the law;
- (d) Emigration procedures;
- (e) Legislation for the protection of migrants;
- (f) Directory of Bolivian embassies and consulates abroad;
- (g) Human rights institutions migrants can apply to for the protection of their rights.

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<sup>32</sup> External note: ASFI/DEP/R-72954/2010 (Supervisory Authority of the Financial System).

<sup>33</sup> See: [www.migracion.gob.bo](http://www.migracion.gob.bo).

<sup>34</sup> The Human Mobility Pastoral is an entity belonging to the Catholic Church, with the overall aim of supporting the migratory movements of people within and outside the country. It has broad experience in support work, counselling, information and various types of assistance to migrants in Bolivia. Throughout Latin America, the Caribbean and Europe, it has shelters for migrants and other services.

169. The Ombudsman's Office also published the following information documents related to migration (within and outside the country):

(a) Poster on the requirements Bolivians must satisfy in host countries, designed to highlight a person's duties when emigrating. This material was circulated in various public bodies of the Plurinational State institutions and especially at frontier posts;

(b) Poster on the campaign against the criminalization of migration: "Ninguna persona es ilegal" (No one is illegal) along with postcards, and circulated as above and at seminars and events on migration;

(c) Poster: "Los que se van los que se quedan" (Those who leave, those who stay behind) for the Eighth International Conference of National Human Rights Institutions: Migration;

(d) Production of a documentary about rights, obligations and risks of migration broadcast on closed-circuit channels at three airports and three bus terminals, as well as at border institutions;

(e) The posters were placed at major airports and land terminals in the country.

(f) A pocket guide for migrants, designed solely for Bolivians in Argentina, providing information on requirements to regularize their status and other topics for the defence of their rights. The work was coordinated with the Consulate-General of Bolivia in Argentina, which circulated the material among the Bolivian communities in Buenos Aires, via the Consulate.

170. Moreover, the Directorate-General of Employment of the Ministry of Labour is preparing a guide to labour migration, which aims to provide migrants with a clear description of the mechanisms, procedures and documentation required for travelling abroad, and will also inform them of their rights, duties and obligations under the conventions and treaties on migration approved by the Bolivian State.

171. The Ministry of Labour is also preparing an information leaflet for each country, as a tool to inform migrant workers of their basic rights and obligations in host countries (Brazil, Argentina, the United States and Spain), including administrative procedures.

172. The Bolivia-Spain Cooperation Association (ACOB) foundation and the Bolivia-Spain Migrant Association (AMIBE)<sup>35</sup> have been publicizing migrants' rights and during 2009 conducted some 25 workshops with young people in various educational institutions and universities with the aim of raising awareness of migration issues, explaining the regular channels and the risks involved in irregular migration, the effects on society and relatives, and development opportunities for communities of origin through remittances.

173. Some State institutions and municipal governments, in coordination with civil society organizations involved in migration issues, have launched a number of campaigns for the general population and for Bolivians wishing to migrate abroad, especially since the massive influx of Bolivian migrants to Europe since the 1990s.

174. Lastly, written information is being distributed among the migrant population in various cities in Spain, Argentina, etc., through the mobile consulates and consular

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<sup>35</sup> The Bolivia-Spain Cooperation Association is a foundation set up by Bolivians, Spaniards and other nationalities, who join forces to work on promoting human rights, ethnic cohabitation and equality. It began operating in Spain in 2004 with the aim of supporting the immigrant population, primarily Bolivians, in the regularization process. Since 2007, ACOBE has been working with AMIBE (Bolivia-Spain Migrant Association) as its counterpart in Bolivia.

protection programmes, to make Bolivian nationals aware of their rights and encourage them to report any violation of their civil and labour rights to the consulates or the relevant institutions

#### **Articles 38 and 39**

##### **Authorization to be temporarily absent without effect upon their authorization to stay or to work in the country; right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.**

175. Article 21 (7) of the Constitution guarantees Bolivians and foreigners alike the right to freedom of residence, abode and movement throughout Bolivian territory, including the right to leave and enter the country.

176. As we have seen, there are no legal provisions restricting liberty of movement of foreigners in the country. Many foreigners travel around the country for tourism and to make investments, which are guaranteed by the relevant legislation.

177. Article 125 of the Constitution guarantees the right to freedom of movement through habeas corpus, as follows: "any person believing his life to be in danger, to have been unlawfully prosecuted, wrongfully tried or deprived of his liberty may bring a habeas corpus action, orally or in writing, in person or through any other person acting on his behalf, without the need for legal formalities, before any judge or court empowered to hear criminal cases, and request that his life be protected, the wrongful prosecution be stopped, legal formalities be re-established or his right to freedom be restored." The procedure for initiating habeas corpus is set out in article 126 of the Constitution.

#### **Articles 40, 41 and 42**

##### **Right to form associations and trade unions; right to participate in public affairs of the State of origin and to vote and be elected at elections of that State; procedures or institutions through which account may be taken, in States of employment, of the needs of migrant workers and the possibility of enjoying political rights**

178. Under Bolivian law everyone has the right to freedom of assembly and association in public and private, for lawful ends.<sup>36</sup> Likewise, all workers have the right to organize trade unions in accordance with the law.<sup>37</sup>

179. Bolivian law applies to all natural or legal persons, whether Bolivian or foreign, on Bolivian territory, as guaranteed by the Constitution. Furthermore, foreigners who are in Bolivia have the same rights as Bolivians and must perform the duties established by the Constitution, subject to the restrictions contained therein.

180. Foreigners resident in Bolivia also have the right to vote in municipal elections in accordance with the law, in line with the principles of international reciprocity pursuant to the Electoral Code.

181. Foreigners who have acquired Bolivian nationality by naturalization have the same rights as those who are Bolivian by birth, with the exceptions set out in the law.<sup>38</sup>

182. The Constitution also lays down the requirements to be met by foreigners wishing to acquire Bolivian nationality.<sup>39</sup>

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<sup>36</sup> Constitution, art. 21 (4).

<sup>37</sup> *Ibid.*, art. 51, subpara. I.

<sup>38</sup> *Ibid.*, art. 27.

<sup>39</sup> *Ibid.*, art. 142.



**Articles 43, 54 and 55****Principle of equal treatment with nationals of the State of employment in relation to the issues identified; equal treatment in relation to protection against dismissal, unemployment benefits, access to public work schemes and access to alternative employment; equality of treatment in the exercise of remunerated activity**

183. In Bolivia there is no discrimination against foreigners for access to such services, so the present Government guarantees equal treatment with nationals as regards access to: educational institutions and services, vocational guidance and placement, vocational training and retraining services and institutions, protection against exploitation in respect of housing rents, social and health services, cooperatives and self-managed enterprises, cultural life and participation therein, and public works schemes to combat unemployment.

184. The Vice-Ministry of Housing and Town Planning is currently implementing the Solidarity-based Social Housing Programme, a new housing policy tool to meet the housing needs of low-income sectors of the population, while ensuring fairness, transparency and efficiency.<sup>40</sup>

185. The programme sets out to:

- (a) Establish and consolidate mechanisms facilitating access to decent housing;
- (b) Give priority to low earners on the principle of social equity;
- (c) Generate employment by encouraging people to build their own homes;
- (d) Meet the housing needs of workers.

186. The General Labour Act establishes equal treatment as regards employment benefits, protection against dismissal, permission to engage in a remunerated activity, access to alternative employment in case of loss of work, unemployment benefits for nationals and foreigners and the right of appeal to the authorities where the employer violates the terms of a work contract.

**Articles 44 and 50****Protection of the unity of the families of migrant workers and reunification of migrant workers with their families; consequences of the death of a migrant worker or dissolution of marriage**

187. The rights of the family<sup>41</sup> are guaranteed in the Constitution, as it protects the family as the fundamental unit of society and ensures the social and economic conditions necessary for social development. All family members also have equal rights, obligations and opportunities. Family law is governed by Act No. 996 of 4 April 1988.

188. Women and men are also guaranteed the exercise of their sexual and reproductive rights.<sup>42</sup>

**Articles 45 and 53****Equal treatment for the families of migrant workers in the areas listed and measures to ensure the integration of children of migrant workers in the local school system; right of the families of migrant workers to a free choice of remunerated activity**

189. In Bolivia there is no discrimination against foreigners for access to such services, so the present Government is guaranteeing equal treatment.<sup>43</sup> Accordingly, foreigners enjoy

<sup>40</sup> See: [www.vivienda.gov.bo/web/pvs\\_info.php](http://www.vivienda.gov.bo/web/pvs_info.php).

<sup>41</sup> Constitution, art. 62.

<sup>42</sup> *Ibid.*, art. 66.

equal treatment in access to educational institutions and services, vocational guidance and training institutions and services, health services and access to cultural life.

#### **Articles 46, 47 and 48**

##### **Exemption from import and export duties and taxes in respect of personal effects; right to transfer earnings and savings from the State of employment to the State of origin or any other State; imposition of taxes and avoidance of double taxation**

190. In Bolivia, the same tax regulations are applied to migrant workers and their families as to national workers. This means that migrant workers and their families are subject to the same tax burden.

191. The article refers to the person liable to bear the tax burden, namely the taxpayer or his substitute, who must meet the obligations laid down by the Tax Code and the law.

192. Arrangements for the export of personal and household effects are governed by the provisions of the General Customs Act.

193. The Bolivian Investment Act guarantees a system of free exchange, with the right to transfer income and savings, without restrictions on the transfer of dividends, interest and royalties outside the country, through transfer of technology or other commercial processes. The Act also provides, however, that all remittances and transfers are subject to taxation as established by law. Bolivia is currently preparing a new investment act designed to encourage and guarantee investments, and ensure the stability of such operations.

194. Bolivian law does not restrict bank transfers, although there are regulations that establish requirements and formalities for the use of current accounts, fixed-term deposit accounts, or savings accounts with no fixed term, subject to the regulations of each bank as approved by the Supervisory Authority for Banks and Financial Institutions<sup>44</sup> (now the Supervisory Authority of the Financial System).

#### **Articles 51 and 52**

##### **Right of migrant workers not permitted freely to choose their remunerated activity to seek alternative employment following the termination of their remunerated activity for which they were admitted; conditions and restrictions applicable to migrant workers who can freely choose their remunerated activity**

195. A foreigner entering Bolivia for the purpose of working in an employment relationship must obtain a work permit in accordance with article 569 of the Labour Code. The aim of this restriction is to limit the provision of work permits to workers who are qualified or who have experience in the area.

196. To that end, article 4 of Supreme Decree No. 24423 of 29 November 1996 provides the same benefits and rights, freedoms and guarantees extended to nationals also to foreigners from any part of the world who enter the national territory with the aim of establishing themselves permanently and contributing with their capital or their dedication and work to national development.

197. As mentioned above, authorizations for temporary and permanent residence allow foreigners to work as self-employed persons or for others. In order to do so, they must register with the Foreign Labour Registry, at the Ministry of Labour, and apply there for a work permit.

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<sup>43</sup> *Ibid.*, art. 14.

<sup>44</sup> Act No. 1182 of 17 September 1990.

198. Work permits must be carried at all times. They prove that the carrier is authorized to carry out paid work. The work permit is valid for as long as the carrier has temporary residence, asylum or refugee status. In the case of those with permanent residence status, it is valid for five years and must be renewed when it expires. Migrant workers wishing to change jobs have to obtain a new work permit allowing them to carry out their activities in the host country.

#### **Articles 49 and 56**

##### **Authorization of residence and authorization to engage in remunerated activity; general prohibition and conditions of expulsion**

199. Bolivia respects the freedom of migrant workers to choose a remunerated activity. To that end, article 4 of Supreme Decree No. 24423 states that Bolivia provides the same benefits and rights, freedoms and guarantees extended to nationals also to foreigners from any part of the world who enter the national territory with the aim of establishing themselves permanently and contributing with their capital or their dedication and work to national development.

200. Regarding the time allowed, article 49 of the Convention is implemented in articles 34 to 40 of Supreme Decree 24423.

201. Conditions of expulsion were mentioned in the replies concerning article 22 of the Convention.

### **D. Part V of the Convention**

202. Migrant specified-employment workers, project-tied workers and self-employed workers enjoy the same rights as if they were nationals. These rights are specified above. This is corroborated by the Constitution and articles 4 and 9 of Supreme Decree 24423 which clearly state that all foreigners residing in Bolivian territory enjoy the protection afforded to the country's nationals by its Constitution and laws and are obliged to comply with the same, as well as with the legal provisions relating to migration. Likewise, article 8 of that Supreme Decree provides that immigrants covered by subparagraphs (b) and (c) of article 6 of the Decree, and their ancestors, descendants and spouse are to be granted permanent residence, subject to the provisions of Supreme Decree 24423.<sup>45</sup>

203. Thus, under Ministerial Resolution No. 018/04 of the Ministry of Labour, self-employed foreign workers are entitled to the rights and benefits laid down in the Constitution and labour laws provided that they satisfy the requirements for obtaining a work permit.

<sup>45</sup> The State recognizes three types of immigration:

- (a) Spontaneous immigration, which consists of the entry into the country of aliens who come on their own accord and at their own expense;
- (b) Planned immigration, which is directed by the Bolivian State directly, or through government agencies abroad, or through the intervention of foreign agencies or international organizations, foreign governments or non-governmental international bodies, involved in migration programmes. This type of immigration must conform to plans and regulations approved by the National Migration Council;
- (c) Selective Immigration, which concerns the entry into the country of investors, professionals, industrial or agricultural technicians and skilled labour. All immigration must take into account the nation's demographic requirements and foster the economic, social and cultural integration of the persons concerned.

204. Migrant workers categorized as frontier workers and seasonal workers will be subject to the provisions of the new Immigration Act that is currently being draft by the Inter-institutional Coordination Mechanism for Migration.

205. Finally, the rights of itinerant workers are guaranteed by the Constitution.

## **E. Part VI of the Convention**

### **Article 65**

#### **Appropriate services to deal with questions concerning the international migration of workers and members of their families**

206. The embassies and consulates of Bolivia abroad have the primary task of promoting and fostering good political, economic, cultural and social relations with the country in which they operate.

207. Bolivian consulates abroad are required to inform and advise the general public (foreigners wishing to migrate to Bolivia) and the Bolivian community in particular, on various aspects of consular functions, requirements for the entry of foreign nationals into Bolivia, migration fees, procedures, rules and procedures, residence and documentation, fundamental rights, duties and guarantees, dual citizenship, status of students, minors, general safety tips and other topics of interest, as set out in the regulations (Supreme Decree 22243 of 11 July 1989).

208. In addition, Decision 548 of the Andean Community of Nations, of which Bolivia is a member, establishes a mechanism for cooperation on consular assistance and protection and migratory matters, for the benefit of nationals of the Andean Community Member Countries who are outside their countries of origin for whatever reason.<sup>46</sup>

### **Article 66**

#### **Authorized operations and bodies for the recruitment of workers in another State**

209. The Observatory of Bolivia and the Public Employment Service, which handles job placement, plan to regularize the issues addressed in this article. The issue will be addressed more specifically in the new migration act that is currently at the drafting stage.

### **Article 67**

#### **Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration**

210. The Plurinational State of Bolivia, through the Department of Consular Affairs of the Ministry of Foreign Affairs, has been devising a set of support programmes for Bolivians abroad, one of which is entitled "Volver a Casa" (Going home), comprising two subprogrammes: the first relates to voluntary and productive return designed to reintegrate migrants into the national economy, while the second is aimed at Bolivians who for various reasons left the country against their will (victims of trade and trafficking) and the repatriation of remains.

211. In 2009 the Ministry of the Presidency approved Supreme Decrees 371 to 373 which support Bolivians who have migrated abroad, with a view to allowing them to return to the

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<sup>46</sup> CAN Decision 548: "Andean Cooperation Mechanism on Consular Assistance and Protection and Migratory Issues." The member countries of the Andean Community of Nations are Ecuador, Colombia, Peru and Bolivia.

country with their productive businesses, regularizing Bolivian migrants in Brazil and promoting exports of surplus rice.

212. Decree 371 amends article 192 of the customs regulations to allow Bolivian citizens who decide to return home from that date to import up to \$5,000 worth of their working machinery and tools in order to continue their business in Bolivia.

213. Pursuant to the Customs Act of 28 July 1999 and Supreme Decree No. 25870 of 11 August 2000, the return policy also allows non-residents in the country and Bolivians returning to take up residence in Bolivia to bring in free of import tax household goods worth up to \$35,000, subject to reliable evidence of staying abroad for at least two years immediately preceding the date of return. Supreme Decree No. 25870 amends the General Customs Act to allow Bolivian citizens who decide to return home to import up to \$5,000 worth of their working machinery and tools in order to continue their business in Bolivia.

214. In addition, the Vice-Ministry of Land in coordination with the Ministry of Foreign Affairs is implementing a national plan for the distribution of land and human settlements, known as the Productive Return Scheme, which aims to provide Bolivian citizens living abroad with free public land provided that they are engaged in farming. Interested Bolivians have to contact consular offices abroad to check whether they are eligible under the scheme. The requirements are as follows:

- (a) To be Bolivian by birth;
- (b) To have an identity document and/or certificate of consular registration;
- (c) To be an adult under Bolivian law;
- (d) To have no criminal record or allegations of labour abuses concerning fellow Bolivians;
- (e) To work in one of the following occupations: farm labourer, vegetable and fruit grower or other agricultural occupation based on working the land.

215. To date, 3.5 million hectares of public land have been set aside for Bolivian residents living in other countries who decide to return to take advantage of the Productive Return Scheme; 1.5 million hectares have already been distributed nationwide.<sup>47</sup>

216. Furthermore, between 2006 and 2007, the Ombudsman's Office supported the Human Mobility Pastoral in successfully returning more than 100 Guatemalan people and children of Guatemalans who had been displaced, with their children, to Bolivia by the civil war in Guatemala. These families came to Bolivia over 15 years ago. The Ombudsman's Office took steps with the public authorities involved, to raise awareness, provide information and issue reminders of legal duties when handling the issue. It also contacted the Office of the Guatemalan Human Rights Procurator to inform it of the case and asked the Guatemalan authorities to take appropriate action for the return of their nationals.

217. The Bolivian Government also applauds the work of IOM in Bolivia with the Voluntary Repatriation Programme which aims to ensure the safety and protection of returnees, using a humanitarian approach, respecting confidentiality to safeguard their dignity. The Reintegration Assistance Programme is designed to ensure that the return process is economically sustainable and that the returnee integrates into society. This promotes economic development through the skills acquired by migrants.

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<sup>47</sup> Source: Hoy Bolivia (Bolivia Today), [www.hoybolivia.com/Noticia.php?IdNoticia=42438](http://www.hoybolivia.com/Noticia.php?IdNoticia=42438).

**Article 68****Measures to prevent and eliminate illegal or clandestine movements and employment of migrant workers in an irregular situation**

218. The Ministry of Labour conducts the inspections necessary to check the presence and status of foreigners. If foreigners are found to be in an irregular situation, it has the power to impose sanctions under the General Labour Act and other legislation.

219. Work is also being conducted in coordination with the Governments of Chile and Argentina on the issue of trade and trafficking of migrants, with a view to eradicating this growing problem. The aim is to protect victims of trade and trafficking and punish these supposed labour brokers.

220. Accordingly, the National Council to Combat Human Trafficking and Smuggling of Migrants was set up, in coordination with other local and international agencies, to carry out a range of activities on three main topics: prosecution, prevention and protection of victims, particularly children and adolescents.

221. And under the National Development Plan, the Ministry of Justice, through the National Council to Combat Human Trafficking and Smuggling of Migrants, has devised a multiannual strategy to combat human trafficking and smuggling of migrants. It began as an initiative of Bolivia to lay the foundations for combating these crimes, which have been taking place for years on an international scale and adversely affecting the social fabric and circumstances of the whole country, to the detriment of thousands of people in the victims' families. On 18 January 2006, the Bolivian Government passed Act No. 3325 on Trade and Trafficking in Persons and other related crimes.<sup>48</sup>

222. In addition, the Vice-Ministry for Equal Opportunities of the Ministry of Justice implemented a project entitled "Strengthening Borders with Bolivia to Reduce Trade and Trafficking in Children and Adolescents" with the support of the Ibero-American Child Development Fund. Bilateral meetings will be held in the coming months to work together on a bi-national strategy against this scourge.<sup>49</sup>

223. Furthermore, on 16 and 17 November 2009 the third bilateral Chile–Bolivia meeting against trafficking in children and adolescents was held in the city of Potosí with the primary aim of helping to reduce illicit trade and trafficking at the borders of Bolivia and Chile.

**Article 69****Measures taken to ensure that migrant workers who are within the territory of the State party and are in an irregular situation do not remain in that situation and circumstances that should be taken into account in regularization procedures**

224. In this regard, the Directorate-General of Migration is conducting immigrant regularization programmes in Bolivia for Peruvians in an irregular situation.

225. Regularization programmes were also run for Bolivians who have migrated to foreign countries; for instance, the Republic of Argentina launched the "Patria Grande" programme which has regularized many Bolivians who were in an irregular situation in that country. Chile has also introduced regularization programmes. The same applies in Spain and other countries where there is significant migration.

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<sup>48</sup> External note: MJ-VIO-ANA-69/10 dated ( July 2010 (Vice-Ministry for Equal Opportunities—Ministry of Justice).

<sup>49</sup> *Ibid.*

**Article 70****Measures taken to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity**

226. The General Act on the Occupational Health and Safety and Welfare of Bolivia, Decree Law No. 16998 of 2 August 1979, makes it the employer's duty to protect the health and safety of workers, among other things; article 6 requires employers to take all technical measures to protect the life and physical and mental integrity of their employees, working to eliminate all kinds of compensation for risk, such as hardship money, bonuses and special leave, which do not eliminate hazardous conditions; to construct buildings with sound structures and proper sanitary, environmental and security conditions; to keep physical structures, machinery, facilities and equipment in a good state of repair and working order.

**Article 71****Repatriation of bodies of deceased migrant workers or members of their families and compensation for death**

227. Consulates provide assistance and protection to Bolivians in migration, labour, civil and family matters. For the repatriation of the bodies of migrant workers and their families who die abroad, public officials are obliged to provide the necessary assistance and make the necessary arrangements with host country authorities.

**IV. Compliance with the recommendations of the Committee****A. General measures of implementation (arts 73 and 84)****1. Legislation and application****Recommendation in paragraph 12 of the concluding observations (CMW/C/BOL/CO/1)**

228. Regarding the Committee's recommendation to consider making the declarations provided for in articles 76 and 77 of the Convention, on recognizing the competence of the Committee to receive and consider communications from States parties to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Convention, and communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party, we would inform the Committee that the declaration provided for in articles 76 and 77 of the Convention will be made when domestic legislation clearly establishes the scope of protection for immigrant citizens resident in Bolivia and for Bolivians abroad. To that end, Bolivia is making progress on a jointly drafted Immigration Bill and public policy in support of the migrant population, together with the legislative framework needed for that purpose (health, education, labour, etc.).

229. On the other hand, we would emphasize that Government of Bolivia has made a clear decision and commitment to make progress towards achieving migration governance on the basis of coherent legislation, with countries in the region and towards the goal of South American citizenship. This is clearly in line with the spirit of articles 76 and 77. This is

demonstrated by Bolivian participation and ratification of agreements reached in forums such as the Tenth South American Conference on International Migration, UNASUR and CAN.<sup>50</sup>

#### **Recommendation in paragraph 14 of the concluding observations**

230. Regarding the Committee's concern that Supreme Decree No. 24423 has not yet been replaced by an immigration law, we would inform the Committee that a draft bill on migration is currently being prepared jointly by the Department of Consular Affairs under the Vice Ministry of Foreign Affairs of the Ministry of Foreign Affairs, the Directorate-General of Migration under the Ministry of the Interior and the Ministry of Labour, in the framework of the Inter-institutional Coordination Mechanism for Migration, which brings together representatives of government and civil society.

231. The new Migration Act will embody the spirit, principles and rules of the human rights instruments ratified by Bolivia, which protect migrants and their families.

232. This is why we are drafting the new legislation in a participatory manner with nationwide representation, which has enabled us to conduct workshops in six departments of the country, and with the Coordinator of Indigenous Campesino Organizations of Bolivia (COINCABOL), in which we not only provide information from State players but also aim to elicit requests and proposals for the future Migration Act.

233. We also place importance on the information processes from conference cycles specializing in migration issues that have been organized, with the aim of putting the migration issue on the public agenda, and stimulating discussion and dialogue.

234. Thus far we have set up a process that aims to assess the situation of migration and make an inventory of needs and proposals in workshops with diverse populations (migrants, relatives of migrants, migrant associations and organizations, organizations working with migrants, grassroots organizations, trade unions, social movements, people who study and/or are interested in migration issues, government officials, the Ombudsman, governors, municipal governments, members of the judiciary, the Legislative Assembly). Both aims are designed to create a scenario that provides up-to-date information from the relevant stakeholders. At the same time we are gathering input for public migration policies.

235. The following progress has so far been made on the drafting of the Migration Bill in Bolivia:

Establishment of a technical committee composed of public-sector players and civil society institutions involved in migration issues;

Preparation and compilation of documents as a basis for preparing the bill;

Training of the public-sector members of the technical committee to direct the drafting of the bill;

Management of the funding of the bill with ILO.

236. The baseline for drafting the migration bill comprises:

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<sup>50</sup> Point 25 of the measures to which the Heads of State committed at the third meeting of UNASUR in Quito in 2009, expresses the need to strengthen regional cooperation and coordination between Member States and the South American Migration Conference, in order to build a common regional UNASUR approach to facilitate the movement of persons. It also recognizes the need for a comprehensive and structured dialogue on migration between the countries of Latin America, the Caribbean and the European Union. In the context of the first Andean Forum on Migration, held in Quito in 2008, CAN acknowledged the individual as the focus of political action and reaffirmed the free movement of persons as an inalienable human right.



(a) A human-rights focus: the draft migration bill will embody a new approach to human rights in line with the charter of fundamental rights enshrined in the Constitution and thus echo the main universal and regional human rights instruments such as the Universal Declaration of Human Rights, the American Convention on Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;

(b) A public security focus, to safeguard and protect the security of the Bolivian population, as per article 9 of the Constitution, which reads as follows: The State has the following essential aims and functions, in addition to those established by the Constitution and the law: 2. To ensure the welfare, development, security and protection and equal dignity of persons, nations, peoples and communities, and to foster mutual respect and intracultural, intercultural and multilingual dialogue.

### **Recommendation in paragraph 16 of the concluding observations**

237. Regarding Bolivia considering the accession as soon as possible to ILO Conventions No. 97 concerning Migration for Employment of 1949 and No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers of 1975, we would inform the Committee that both Conventions need to be underpinned by legislation that defends the rights of migrant workers. In the case of Convention No. 97, we would also draw attention to the importance of timely care, social security and other individual and collective workers' rights.

238. The reasons given in the first point are therefore valid, since there is a need for a consistent, comprehensive, coordinated, agreed and approved regulatory framework. We would recall that this country agrees with the rights of migrants, and assert that its work in the region under regional agreements bears this out.

239. While Bolivia has not ratified the two Conventions, it is working to foster respect for the human rights of migrants. Convention No. 143 refers, among other things, to the importance of locating migrants to report on their labour situation so that it can be regularized if their rights are being violated; this is a measure that could be addressed by the Directorate-General of Migration, which is planning a census of the foreign population. Coordination with employer sector and representatives of employed workers is also an action that will be addressed on the basis of collective work and in ongoing consultation with the various sectors of the country.

240. Social control, as a constitutional right, is also a form of participation and ongoing supervision, which may be conducted in a manner that benefits the migrant worker population. However, in the context of the reorganization of the State, measures relating to migration must also be coordinated and forged collectively and through ongoing consultation.

## **2. Data Collection**

### **Recommendation in paragraph 18 of the concluding observations**

241. Regarding the Committee's concern over the lack of information and statistics on migration flows, we would inform the Committee that since 2007 the Directorate-General of Migration of the Ministry of the Interior has been publishing an annual management report, compiled from the statistical reports submitted to the Directorate-General of Migration from the various district departments of migration and border posts in Bolivia. The Department of Immigration publishes its reports and they are available on its website

([www.migracion.gov.bo](http://www.migracion.gov.bo)).<sup>51</sup> A copy of the annual report for 2007 and 2008 is attached to the present report.

242. Furthermore, the Department of Consular Affairs of the Ministry of Foreign Affairs has statistics on migration flows of Bolivians abroad, showing that some 2,107,660 are resident abroad.<sup>52</sup>

### 3. Training in and dissemination of the Convention

#### Recommendation in paragraph 20 of the concluding observations

243. Regarding the Committee's recommendation to intensify training for officials working in the area of migration, in 2010 the Directorate-General of Migration conducted a project with the Plurinational Public Management College (EGPP) for training public officials interested in receiving training on migration issues, namely a degree course in migration and public management.

244. Accordingly, in recent years the Ombudsman's Office has been running a series of training workshops on migrants' rights at border posts and in capital cities for public servants. They were focused on Cochabamba, Potosi, Sucre, Cobija, La Paz, Villazón and Pisiga, among others. These workshops were fully participatory; working groups were formed and participants were fully involved.

245. Furthermore, in 2010 the Ministry of Justice, through the Vice-Ministry of Justice and Fundamental Rights, ran a series of workshops in the cities of La Paz, Cochabamba and Santa Cruz on the Convention and the mechanisms for protecting migrants' human rights. The workshops aimed to inform participants of the guidelines established in the Convention, the relevant protection mechanisms, and the Committee's observations and recommendations on the initial report submitted by the Bolivian State in 2008. The workshops were attended by public servants of the Ministry of the Interior, Ministry of Justice, Ministry of Defence, Ministry of Labour, Directorate-General of Migration, the Police Migration Support and Control Unit (UPACOM), the armed forces, Bolivian police, INTERPOL, the judiciary, Legislative Assembly, Children's and Adolescents' Defence Offices, the Departmental Electoral Court and civil society organizations.

246. Further workshops were run in coordination with the Office of the United Nations High Commissioner for Human Rights in Bolivia and the International Organization for Migration. In terms of methodology, these workshops combined talks by representatives of the Office of the United Nations High Commissioner for Human Rights in Bolivia, IOM and the Ministry of Justice with sessions in working groups involving the workshop participants. These workshops were very well attended by the above public servants and representatives of the various civil society organizations. The Ministry of Justice announced the workshops on its website at [www.justicia.gob.bo](http://www.justicia.gob.bo)

247. The Ministry of Foreign Affairs, through the Department of Consular Affairs, with the support of IOM and in coordination with the Human Mobility Pastoral, also ran a series of workshops in the departments of Bolivia entitled "Migrante, conoce tus derechos" (Migrant, know your rights) with the primary goal of fostering forums for information, discussion and participatory and inclusive conception, with a view to contributing to policy-making on migration in Bolivia. This cycle of workshop was aimed at migrants, migrants' family members, migrant associations and organizations, organizations working

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<sup>51</sup> External note: CITE: DJ.DGM.129/2010 dated 30 June 2010 (Ministry of the Interior – Directorate-General of Migration).

<sup>52</sup> "Presentation: Migration, Figures, Statistics" Department of Consular Affairs – Ministry of Foreign Affairs of Bolivia.

with migrants, grassroots organizations, trade unions, social movements, persons studying and/or interested in migration issues, and government officials from the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Justice, Ministry of Labour, Ombudsman, governors, municipal governments, members of the judiciary and Legislative Assembly.

## **B. General principles (arts 7 and 83)**

### **1. Non-discrimination**

#### **Recommendation in paragraph 22 of the concluding observations**

248. We would inform the Committee that the Constitution prohibits and punishes all forms of discrimination based on sex, colour, age, sexual orientation, gender identity, origin, culture, nationality, citizenship, language, religious creed, ideology, political or philosophical affiliation, marital status, economic or social condition, type of occupation, degree of education, disability, pregnancy or other condition whose purpose or result is to nullify or undermine the recognition, enjoyment or exercise, under conditions of equality, of the rights of all persons.<sup>53</sup>

249. The Constitution clearly guarantees the full enjoyment of rights under the Convention, but these rights will be explicitly set out in the Bolivian Migration Act that is currently being drafted.

250. Also, in accordance with the National Development Plan "Bolivia—Dignity, Sovereignty, Productivity, Democracy, living well", a public document laying down guidelines for the elimination of racial discrimination and since discrimination is prohibited by the Constitution, in 2008 the Directorate-General of Migration set up a complaints and suggestions box for foreign citizens and Bolivian nationals in the cities of La Paz, Cochabamba and Santa Cruz.

251. Specifically there were no complaints of discrimination in the Directorate-General of Migration, but there were allegations of abuse and corruption, which were handled in accordance with the rules of procedure of the Ministry of the Interior, and in some cases, such as the Santa Cruz District Department and the Villazón border post (Potosí), direct action was taken, changing more than 80 per cent of the staff (2009).

252. Regarding the promotion of information campaigns for public officials, and as mentioned in the previous recommendation, Bolivia is conducting awareness campaigns through various public institutions such as the Ombudsman's Office, Ministry of Foreign Affairs, Ministry of Justice and Ministry of Labour.

### **2. Right to an effective remedy**

#### **Recommendation in paragraph 24 of the concluding observations**

253. The new Judiciary Act (LOJ) of 24 June 2010, endorses the fundamental guarantees and rights that are enshrined in the country's Constitution and laws. In fact, all the rights recognized in the Constitution are directly applicable and are equally protected by guarantees. Moreover, any international human rights treaties or instruments that the State has signed, ratified or acceded to, which stipulate rights more favourable than those contained in the Constitution, prevail over the latter. Accordingly, no judicial authority may

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<sup>53</sup> Constitution, art. 14, para. II.

justify the violation of the human rights and guarantees in the Constitution by alleging that they are defective, obscure, insufficient or unknown.<sup>54</sup>

254. Therefore, to ensure that they enjoy the rights recognized in the agreements, covenants and conventions to which Bolivia is a party, any inhabitants of the country who believe their rights have been violated may complain to the competent judicial authorities and internal bodies: the Public Prosecution Service, judiciary, Ombudsman's Office and, after exhausting domestic remedies, to the competent international bodies.

255. Article 113 of the Constitution mentions the right to remedy that can be fully exercised by victims. It is described above.

### C. Human rights of all migrant workers and members of their families (arts 8 to 35)

#### Recommendation in paragraph 26 of the concluding observations

256. Regarding the Committee's concern regarding the situation and number of migrants in administrative custody for violations of provisions relating to migration, we would inform the Committee that the Directorate-General of Migration does not "intern" any citizens or foreign nationals, because this term indicates detention and confinement.<sup>55</sup> The Directorate-General of Migration takes the citizen or foreign national in question into custody. While foreigners are in custody, the Ministry of the Interior through the Directorate-General of Migration feeds them and provides accommodation in compliance with the Constitution, i.e. ensuring respect for the person's human dignity as per article 22.

#### Foreign citizens held in custody, 2009

<i>Nationality</i>	<i>No. Citizens</i>	<i>Duration</i>	<i>Place of custody</i>
Argentine	7	<8 hrs (including time of transfer to border post)	Migration office
Brazilian (*)	12	<8 hrs (including time of transfer to border post)	Migration office
Cameroonian (*)	1	<8 hrs (including time of transfer to border post)	Migration office
Chilean (*)	11	<8 hrs (including time of transfer to border post)	Migration office
Chinese (*)	18	<8 hrs (including time of transfer to border post)	Migration office
Colombian	16	<8 hrs (including time of transfer to border post)	Migration office
Ecuadorian	6	<8 hrs (including time of transfer to border post)	Migration office
United States (*)	3	<8 hrs (including time of transfer to border post)	Migration office
Spanish	2	<8 hrs (including time of transfer to border post)	Migration office
French	2	<8 hrs (including time of transfer to border post)	Migration office
Dominican	2	<8 hrs (including time of transfer to border post)	Migration office
Paraguayan (*)	3	<8 hrs (including time of transfer to border post)	Migration office
Peruvian	114	<8 hrs (including time of transfer to border post)	Migration office
Uruguay	1	<8 hrs (including time of transfer to border post)	Migration office
<b>Total</b>	<b>198</b>		

<sup>54</sup> New Judiciary Act, art. 12.

<sup>55</sup> Report: JNI. No. 15/02/11 dated 18 February 2011.

**Foreign Citizens Held In Custody, 2010**

<i>Nationality</i>	<i>No. Citizens</i>	<i>Duration</i>	<i>Place of custody</i>
Angolan	1	<8 hrs (including time of transfer to border post)	Migration office
Argentine	17	<8 hrs (including time of transfer to border post)	Migration office
Bangladeshi	1	<8 hrs (including time of transfer to border post)	Migration office
Belgian	1	<8 hrs (including time of transfer to border post)	Migration office
Brazilian(*)	59	<8 hrs (including time of transfer to border post)	Migration office
British	1	<8 hrs (including time of transfer to border post)	Migration office
Cameroonian (*)	3	<8 hrs (including time of transfer to border post)	Migration office
Chilean (*)	18	<8 hrs (including time of transfer to border post)	Migration office
Colombian	57	<8 hrs (including time of transfer to border post)	Migration office
Cuban	10	<8 hrs (including time of transfer to border post)	Migration office
Ecuadorian	4	<8 hrs (including time of transfer to border post)	Migration office
Spanish	5	<8 hrs (including time of transfer to border post)	Migration office
French	6	<8 hrs (including time of transfer to border post)	Migration office
Indian	1	<8 hrs (including time of transfer to border post)	Migration office
Mexican	4	<8 hrs (including time of transfer to border post)	Migration office
Nigerian (*)	2	<8 hrs (including time of transfer to border post)	Migration office
United States (*)	1	<8 hrs (including time of transfer to border post)	Migration office
Paraguayan (*)	10	<8 hrs (including time of transfer to border post)	Migration office
Peruvian	124	<8 hrs (including time of transfer to border post)	Migration office
Sri Lankan	1	<8 hrs (including time of transfer to border post)	Migration office
South African	1	<8 hrs (including time of transfer to border post)	Migration office
Uruguayan	2	<8 hrs (including time of transfer to border post)	Migration office
<b>Total</b>	<b>339</b>		

*Source:* National Inspection Unit—Directorate-General of Migration

(\*) In some cases citizens of these countries had to be held for more than 24 hours as they had to be transferred to remote border points.

257. We would inform the Committee that foreigners in custody for violating an administrative rule are held separately from convicted persons or persons detained pending trial. Whenever a foreign national is expelled, the Department of Inspections and Settlement uses the procedure described under article 16 of the Convention.

**Recommendation in paragraph 28 of the concluding observations**

258. Regarding the Committee's recommendation that consular services abroad should respond more effectively, and according to information provided by the Department of Consular Affairs of the Ministry of Foreign Affairs, the procedures for obtaining documents by Bolivians abroad have been facilitated by the regularization of migration in the countries with the highest concentration of Bolivians, such as Brazil, Argentina and Spain, from 2007 to date.

259. With the adoption of Supreme Decree 29277, the Migration Regularization Agreement signed between the Government of Bolivia and Brazil, between September 2007 and March 2010 the Bolivian Consulates in Brazil through mobile units of the National Directorate for Civil Registry of the National Electoral Court, and after

checking births and marriages records in the National Registration System (SIREN), issued duplicate birth or marriage certificates to Bolivian citizens registered in Bolivia.

260. Similarly, Bolivians were issued with criminal record certificates within 24 hours by mobile units of the National Police Crime Squad, and identify cards by mobile units of the National Police.

261. Furthermore, Act No. 3108 and Supreme Decree 29739 on the Documentation Programme in Spain and Italy (extended by Supreme Decree 0327) enables Bolivians, for a fee of US\$13, to obtain their certificate legalized by the Spanish Foreign Ministry within 48 hours in Madrid and in under a week elsewhere in Spain. A marriage certificate can be obtained for US\$29 and a civil status certificate for US\$27, within 48 hours in Madrid and in under a week elsewhere in Spain.

262. For a fee of US\$40, Bolivians can correct any errors in the civil registry and extend the certificate at the same time. This procedure takes two months, but citizens do not have to return to their country.

263. Since October 2009, Madrid has had access to the REPAJ criminal records database, allowing criminal record certificates to be issued within 15 days for a fee of US\$50.

264. In addition, the Department of Consular Affairs, in coordination with the Judicature Council, decentralized the Cerbero criminal record system to issue certificates to Bolivian citizens within 10 days of the application.

265. The Consular Service Fund was set up by Resolution No. 438/2010 of 6 July 2010, maintained by fees from the services provided by the consular service to Bolivian citizens living abroad with a view guaranteeing their human rights and improving their immigration and labour status.<sup>56</sup>

266. The Department of Consular Affairs is also running documentation support programmes for Bolivian citizens abroad, obtaining funding from the National Treasury for the support programme for Bolivians in Argentina, Spain and Italy.<sup>57</sup>

267. Note that with the promulgation of Supreme Decree No. 449 of 17 March 2010, more than 30,000 applications for machine-readable passports<sup>58</sup> were processed through the Consular Management Portal system introduced by the Ministry of Foreign Affairs. It operates in more than 75 consular and diplomatic representations abroad.

268. Finally, with the promulgation of Supreme Decree No. 741 of 15 December 2010, measures have been promoted and implemented to enable Bolivians living in the six major migrant destinations (Argentina, Spain, Brazil, the United States, Italy and Chile) to obtain personal documents. This Supreme Decree is valid for three years and allocates sufficient resources to meet its target.<sup>59</sup>

### **Recommendation in paragraph 30 of the concluding observations**

269. The right of appeal to a competent authority is fully guaranteed and recognized in domestic law, under article 14, subparagraph (j), of Supreme Decree 24423 of 29 November 1996, whereby the Directorate-General of Migration of the Ministry of the

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<sup>56</sup> The fund is maintained with consular fees from issue of passports, renewal of passports, provision of criminal record certificates and civil registry procedures (SIRENA).

<sup>57</sup> During the first half of 2010, the programme assisted some 75,000 Bolivians in Spain and Italy.

<sup>58</sup> Bolivians abroad now have a document with improved security features for the same price as the manually read documents issued previously.

<sup>59</sup> External note: VRE-DGRC-UAB-002899/2011 dated 11 February 2011 (Ministry of Foreign Affairs).

Interior is responsible for investigating and deciding on appeals lodged against the decisions or provisions of the national departments or departmental administrations on expulsions or the right of abode.

#### **D. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts 36 to 56)**

##### **Recommendation in paragraph 32 of the concluding observations**

270. Regarding complaints from foreign citizens about delays in processing and the cost of procedures, we would explain that the Directorate-General of Migration does not obstruct the regularization of foreign citizens seeking temporary or permanent residence, but merely ensures compliance with the requirements of the Immigration Regime and the Manual of Administrative Procedures and Requirements (MAPA), which are available from the information desks at the Directorate-General of Migration and departmental offices.<sup>60</sup>

271. The main reasons for delays in completing formalities detected by the Directorate-General of Migration are: (a) Failure to comply with the requirements laid down in the MAPA and (b) The delay involved in the procedure required by INTERPOL, which is also among the requirements laid down by the Directorate-General of Migration.

272. To further expedite the immigration process with INTERPOL, an interpretive operating agreement has been signed between the immigration authorities of Argentina and Bolivia.

273. Regarding duty stamps, the Directorate-General of Migration handles residence services for immigrants and issues passports to Bolivian citizens, but the management of duty stamps and the cash proceeds from selling them is the sole responsibility of the Directorate-General for Revenue, reporting directly to the Minister of the Interior, which is examining the implementation of the recommendation.

##### **Recommendation in paragraph 34 of the concluding observations**

274. The Constitution guarantees Bolivians living abroad the right to vote in elections for the President and Vice-President of the State, and in others laid down by law.<sup>61</sup> This right is exercised through civil and electoral registration by the Electoral Bureau. Foreigners resident in Bolivia also have the right to vote in municipal elections, in accordance with the law, in line with the principles of international reciprocity

275. In this regard, pursuant to Supreme Decree 003 of 11 February 2009, Bolivia complies with article 27, paragraph I, of the new Constitution. Article 26 of the Constitution establishes the right of Bolivians to participate freely in the formation, exercise and control of political power, which includes the right to suffrage, through equal, universal, direct, individual, secret, free and compulsory voting, with public counting of votes. Citizens 18 years of age and older must vote.

276. Since 2006 the national Government has also been implementing regularization programmes for the documentation of Bolivians living abroad, to legalize their stay in other countries. Bolivians resident abroad have the constitutional right to vote, and since the national Government is duty-bound to ensure the effective exercise of this right, it enacted the above-mentioned Supreme Decree.

<sup>60</sup> External note: CITE: DJ.DGM.129/2010 dated 30 June 2010 (Ministry of the Interior – Directorate-General of Migration).

<sup>61</sup> Constitution, art. 27.

277. In the 2009 presidential elections, 83,953 Bolivians living abroad exercised their right to vote for the first time in the general elections, thanks to the coordinated efforts of the National Electoral Court and the embassies and consulates abroad in Argentina, Spain, Brazil and the United States, the countries where there are the largest numbers of Bolivian migrants.

**Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts 64 to 71)**

**Recommendation in paragraph 36 of the concluding observations**

278. In this regard, we would clarify that article 8 of Supreme Decree No. 25150 of 4 September 1998 establishes the organization and functioning of the National Migration Service (now the Directorate-General of Migration), as follows:

<i>Level</i>	<i>Unit</i>
Management level	Directorate
Coordination level	Technical Board
Executive and operational level	Department of Planning and Standards Department of Aliens and Passports Department of Inspections and Settlement;
Executive support level	Administrative Department Legal Department
Decentralized level	Departmental Offices

279. However, we should clarify two aspects of this organizational structure.

(a) Since the enactment of the Decree, the Technical Board has not yet been implemented. The Directorate-General of Migration is currently drafting the regulations for the operation of the National Migration Council, established in the 2010 Annual Operations Plan;

(b) The Department of Planning and Standards is not currently part of the units in the above structure.

280. The organizational structure of the executive branch (Supreme Decree No. 29894 of 7 February 2009) currently has the Directorate-General of Migration reporting directly to the Minister of the Interior, in order to have a direct influence on the formulation of policy and decisions relating to migration, so we are bound to assert that there is no lack of coordination in the work of the Directorate-General of Migration.

281. The Inter-institutional Coordination Mechanism for Migration is the body that supports the migration regime, and is composed of public-sector players and civil society institutions involved in migration issues, namely: the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Justice, Ministry of Labour, Central Bank of Bolivia, Plurinational Legislative Assembly, National Statistics Institute, Ombudsman's Office, Directorate-General of Migration, Human Mobility Pastoral, IOM, ILO, Technical Working Group on Migration and UNICEF.

**Recommendation in paragraph 38 of the concluding observations**

282. Regarding the Committee's concern that 60 per cent of the indigenous population has migrated abroad, we would inform the Committee that there may be some misunderstanding, since according to studies by the National Statistics Institute of Bolivia



in the 2001 Census, the figure of 62.2 means the percentage of indigenous population in Bolivia, i.e. 62.2 per cent claimed to be indigenous in the census.<sup>62</sup>

283. Accordingly, we would inform the Committee that while 62.2 per cent of the Bolivian population regards itself as indigenous,<sup>63</sup> this does not mean that this percentage has migrated abroad. The INE does not currently have data or figures on the number of Bolivians who regard themselves as indigenous who have migrated abroad; the only figures relate to internal migration and migration between departments.<sup>64</sup>

#### **Recommendation in paragraph 40 of the concluding observations**

284. Regarding the Committee's recommendation encouraging the State to support a study on the situation of children of migrant families, we would inform the Committee that the representation of the Ombudsman's Office in Cochabamba has been devising a project to support children of migrant parents, in coordination with the Children's and Adolescents' Defence Office of the Municipal Government of Cochabamba.

285. Another noteworthy study addressing the situation facing migrants' children was conducted from 2007 to 2009 by AMIBE—CODEM on the crisis in care for children of Bolivian migrants in Spain.

286. UNICEF is also in the process of conducting a study on the situation of children of migrant families, in coordination with State institutions working in the field of migration.

#### **Recommendation in paragraph 42 of the concluding observations**

287. Regarding the Committee's recommendation with respect to creating mechanisms to facilitate the identification of vulnerable migrant groups, we would inform the Committee that the Inter-institutional Coordination Mechanism for Migration is a member of the following four working groups:

- (a) Institutional regulations;
- (b) Welfare (health, education, culture, gender and family);
- (c) Economy (labour, trade, remittances);
- (d) Refugees.

288. Working group 4 is working on the draft of the Immigration Bill and already has a draft Refugee Bill at the evaluation stage in all public institutions and civil society organizations working on the topic.

289. Pursuant to Supreme Decree No. 24423 on the legal migration regime, the Department of Inspections and Settlement under the Directorate-General of Migration is tasked with controlling border posts and land crossings. Accordingly, each border post has inspectors whose job is to control Bolivian and foreign migrants entering or leaving the country. They are supported by the Police Migration Control Support Unit (UPACOM), administratively attached to the Directorate-General of Migration (DIGEMIG).

290. Pursuant to article 23 of Supreme Decree No. 28329 "National Refugee Commission in Bolivia, Regulations and Procedures" dated 12 September 2005, the Directorate-

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<sup>62</sup> See: [www.ine.gov.bo/indice/visualizador.aspx?ah=PC20501.HTM](http://www.ine.gov.bo/indice/visualizador.aspx?ah=PC20501.HTM).

<sup>63</sup> External note: CITE: INE/DEIS/DIR No. 1931–1910 dated 29 November 2010 (National Statistics Institute).

<sup>64</sup> "Bolivia: Características Sociodemográficas de la Población Indígena" (Sociodemographic characteristics of the indigenous population). Ministry of Financial Affairs – National Statistics Institute. 2006, pp 87–98.

General's border and air-terminal inspectors are fully aware that they may not refuse applications by foreigners seeking protection in Bolivia; they subsequently pass on such applications for refuge status to the Secretariat of the National Commission for Refugees for processing. Applicants have 30 days to report to the Commission's Secretariat and make their application, otherwise they are classed as ordinary migrants subject to the rules laid down in Supreme Decree No. 24423 on the legal migration regime.

291. Regarding the issue of trafficking in persons, the National Council to Combat Trafficking in Persons and Smuggling of Migrants implements the multiannual strategy to combat trafficking in persons and smuggling of migrants, which began as a Bolivian State initiative to lay the foundations for combating such crimes, which have been gaining ground for years internationally and are adversely affecting Bolivia.

**Recommendation in paragraph 44 of the concluding observations**

292. The Department of Consular Affairs under the Vice-Ministry of Foreign Affairs of the Ministry of Foreign Affairs offers timely and specific support to citizens who might potentially benefit under Supreme Decree 0301, which states that: "Household items imported into the country are exempt from import customs duty on the following basis:

(a) For Bolivians returning from abroad and taking up permanent residence in the country, household items include furniture, appliances and accessories for the normal domestic use of a family unit and machinery, equipment and tools used in their business, up to a maximum value of US\$50,000;

(b) For non-residents entering to take up residence in the country, household items include furniture, appliances and accessories for the normal domestic use of a family unit up to a maximum value of US\$35,000.

293. Similarly, the Department of Consular Affairs holds meetings with the Vice-Ministry of Tax Policy and the National Customs in order to help solve any problems experienced by citizens who decide to return.

294. Finally, the Ministry of Foreign Affairs has been working on a return and sustainable reintegration plan for Bolivian migrants that aims to inform the drafting of proposals for a Bolivian migration policy, particularly with respect to potential returns to Bolivia of Bolivian migrants abroad and options for reintegrating them into the dynamics of life in the country.<sup>65</sup>

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<sup>65</sup> External note: VRE-DGRC-UAB-002899/2011 dated 11 February 2011 (Ministry of Foreign Affairs).