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Summary record of the 3851st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 9 March 2022, at 3 p.m.

Chair: Ms. Pazartzis

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Fourth periodic report of the Plurinational State of Bolivia (continued)
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1. *At the invitation of the Chair, the delegation of the Plurinational State of Bolivia joined the meeting.*
2. **The Chair** invited the delegation to continue replying to the questions raised by the Committee members at the previous meeting.
3. **Ms. Macdonal Álvarez** (Plurinational State of Bolivia), responding to a question on the Government's implementation of the Committee's Views, said that, in some cases, the Government's efforts to interpret those Views had been hampered by uncertainty over what would constitute adequate compensation for victims. The Government was currently exploring ways of overcoming that problem.
4. **Mr. Lima Magne** (Plurinational State of Bolivia), speaking via video link, said that he had held many discussions with Rebeca Elvira Delgado Burgoa, the author of communication No. 2628/2015, in an effort to ensure that the Government implemented the Committee's Views on that communication as fully as possible. The Government would welcome the Committee's suggestions as to the amount of compensation that should be awarded to the author.
5. A court specializing in cases involving violence against women and corruption had ruled in favour of Felipa Huanca, a former candidate for an elective post who had been subjected to political harassment and violence. The Directorate General for the Prevention of All Forms of Gender-based and Generational Violence had followed up on all reports of political harassment submitted to it in 2021. Legal action was being taken against the persons believed to be responsible for the murder of the political activist Juana Quispe, who, prior to her murder, had been unlawfully prevented from occupying the post to which she had been elected. The authorities had completed the initial investigation, and the trial was to begin within the next few months.
6. **Mr. Santos Pais** said that he wished to know what the time frame was for amending article 295 of the Criminal Code to bring it into alignment with articles 1 and 4 of the Convention against Torture and whether the definition of torture in the amended article would cover all the elements contained in article 1 of that Convention. He would like to know whether the proposed amendment would set appropriate penalties for acts of torture and establish that the offence of torture was not subject to any statute of limitations. He also wished to learn whether all allegations of torture were thoroughly investigated. Had the State party established an independent process for determining the amount and type of reparations that should be afforded to victims of torture?
7. He would like to know whether the Government had plans to increase the human and financial resources provided to the Forensic Investigation Institute with a view to enhancing the Institute's technical capacities and technological tools. The Committee would be grateful to learn whether special units, staffed by experts in the defence of victims of torture, would be established within the National Public Defence Service and the Plurinational Service for Assistance to Victims. It would be interesting to know whether the State party intended to provide comprehensive reparations to all victims of torture and whether it planned to strengthen training on the prevention of torture for justice officials, police officers and members of the armed forces.
8. He would be interested to hear what investigations had been conducted into the reports of torture and ill-treatment received by the Ombudsman's Office between 2013 and August 2021 and whether any of the perpetrators had been convicted. He noted that the Ombudsman's Office had taken over the role of national mechanism for the prevention of torture, and he wondered whether the necessary powers had been transferred to the Office from the Service for the Prevention of Torture, which had previously fulfilled that role. He was interested in learning whether the national mechanism for the prevention of torture had

the necessary technical, financial and human resources to fulfil its mandate and whether measures would be taken to ensure that persons deprived of their liberty were able to submit complaints of torture or ill-treatment to the Ombudsman's Office without running any risk of reprisals.

9. As 28 incidents of mob justice had occurred between 2017 and 2021 and 19 such incidents had taken place in 2021 alone, he was keen to learn how many prosecutions had been conducted in connection with those incidents and what their outcomes had been. He would appreciate it if the Government would indicate whether it intended to build the capacity of the authorities in every department in the country to prevent lynchings and other acts of mob justice and take legal action when they occurred. Information on any plans for continuing to raise awareness, including through media outlets and schools, of the unlawful nature of mob justice would be welcome.

10. **Ms. Bassim** said that she wished to know whether the State party had amended the rules of military criminal law to exclude human rights violations from military jurisdiction, in line with the Committee's recommendation in its previous concluding observations (CCPR/C/BOL/CO/3, para. 13). She wondered whether any other measures had been taken to ensure that cases of human rights violations were not tried by military courts and whether, in that connection, the Organic Act on the Armed Forces of the Plurinational State of Bolivia had been brought into line with the Constitution and international human rights treaties.

11. The Committee would be grateful for information on any steps being taken to prevent corporal punishment in educational establishments, prisons and other institutions. It also wished to know what campaigns were being conducted to raise awareness of the prohibition of corporal punishment and the harmful effects of such punishment, including among indigenous peoples. She would like to invite the delegation to describe the role played by opinion leaders, religious leaders and the media in such campaigns.

12. Information would be welcome on the impact of any measures being taken to reduce the use of pretrial detention, including through the implementation of Act No. 1173 on Summary Criminal Procedure and Strengthening Measures to Combat Violence against Children, Adolescents and Women. Information would also be appreciated on the status of the bill on summary criminal proceedings, which was intended to guarantee speedy access to justice and ensure that pretrial detention was used only in exceptional circumstances. In addition, she wished to know what percentage of persons deprived of their liberty were being held in pretrial detention and to what extent use was being made of alternative measures, such as bail, electronic monitoring bracelets or the issuance of orders to prevent persons suspected of committing offences from leaving the country.

13. In the light of reports that persons deprived of their liberty had little or no contact with the National Public Defence Service, she wanted to know whether such persons had access to mechanisms for filing complaints against torture, ill-treatment and other human rights violations and, if so, whether those mechanisms were secure and confidential. She would be interested to learn exactly how the authorities facilitated the filing of complaints and whether complainants were protected against reprisals.

14. What steps were being taken to ensure that the children of persons deprived of their liberty were confined in prison with their parents only on an exceptional basis and only when it was in their best interests? She would appreciate it if the delegation would indicate how the Government ensured that the living conditions of children who were in prison with their mothers were suitable for their physical, psychological, moral and social development and that they had access to health care and education and were protected against all forms of violence and harassment.

15. **Ms. Abdo Rocholl** said that she wished to know whether Act No. 1341 of 23 July 2020, which concerned states of emergency, was still in force and whether additional resources would be mobilized to ensure the implementation of the Act on the Elimination of Racism and All Forms of Discrimination (No. 045 of 8 October 2016).

16. She would like to know what measures the State party had taken to expedite investigations into the serious rights violations that had reportedly occurred during the protests and strikes of October and November 2019, to punish those responsible and to

provide comprehensive reparations to victims, including the victims of the incidents that had occurred in Sacaba, Senkata and Zona Sur. The Committee had received reports of violent clashes between coca farmers and the police in La Paz in September 2021 and between protesters and the police in Santa Cruz, Potosí and Tarija in November 2021. She would welcome information on any investigations carried out into the alleged excessive use of force by law enforcement officers during those clashes and the outcome of such investigations, including information on any criminal sanctions imposed and reparations awarded. She welcomed the adoption of a manual on the use of force in internal conflicts and wished to know whether the State party had issued similar manuals for police operations and joint operations involving security and police officers; whether it had taken legislative steps to protect the right to peaceful protest; and whether it had established a monitoring body to oversee the activities of the security forces and had vested that body with the power to initiate prompt investigations into cases in which lethal force had been used.

17. **Mr. El Haiba** said that he would welcome further information on the outcome of the measures taken to address past violations of human rights, in particular with regard to the allocation of comprehensive reparations for victims.

18. On the issue of prison overcrowding, he would be grateful for updated information on the status of the draft presidential decree referred to in paragraph 117 of the State party's replies to the list of issues (CCPR/C/BOL/RQ/4). In the light of reports that the prison system's budget had been reduced considerably in 2021, he wished to know what measures had been taken to ensure that the rights of prisoners had not been undermined by the shortage of resources and whether an increase in the prison system's budget was envisaged for 2022. He would be grateful if the delegation could share the results of the prison survey carried out in 2019 and wished to know what measures had been taken to ensure that pretrial detainees were held separately from convicted prisoners. Had the State party considered promoting the use of non-custodial measures in respect of pretrial detainees and, if so, under what conditions? In view of the designation of the Ombudsman's Office as the new national preventive mechanism, it would be useful to receive further information on the regulatory framework that governed the Office's funding and ensured its independence. Lastly, he would be interested to learn about any measures adopted to put an end to prisoner-run privilege schemes, which reportedly entailed the illicit collection of protection money.

19. **Ms. Tigroudja** said that she would welcome a reply to her previous questions about the measures taken to address violence against women, child abuse, femicide, criminal proceedings against women who underwent abortions and the violation of the principle of medical confidentiality in respect of abortions. She would also appreciate additional information on the steps taken to organize training on sexual and reproductive health for members of the judiciary.

20. She would be grateful for up-to-date information on the number of families currently living in a state of servitude in the Chaco region and other sugar-producing regions. In that regard, it would be useful to learn how many investigations had been undertaken during the reporting period in response to complaints of the use of forced or bonded labour or other forms of servitude and what penalties had been imposed on the employers in question. The Committee was concerned that the measures taken to eliminate all forms of slavery were reportedly more administrative, rather than judicial, in nature. She would therefore welcome further information on the measures taken to eliminate forced and bonded labour since 2010 and on the effect that the coronavirus disease (COVID-19) pandemic had had in that connection. It would be helpful to know how the State party gauged the effects of the measures it took in that regard and what steps it had taken to provide economic support to financially vulnerable families. She would also welcome clarification of the role and powers of the National Institute of Agrarian Reform.

The meeting was suspended at 3.55 p.m. and resumed at 4.10 p.m.

21. **Mr. Lima Magne** (Plurinational State of Bolivia) said that all public institutions whose mandate was not established in the Constitution must be attached to a ministry of State. The Service for the Prevention of Torture was therefore attached to the Ministry of Justice and Institutional Transparency. As explained in paragraph 76 of the State party's replies to the list of issues, in the light of the observations of the Subcommittee on Prevention

of Torture concerning the lack of independence that such a hierarchical structure entailed, the State had decided to transfer the role of national preventive mechanism from the Service for the Prevention of Torture to the Ombudsman's Office. The transfer of powers, staff, infrastructure, records and budget resources had been completed. As part of the Ombudsman's Office, which was not attached to the executive branch, the national preventive mechanism was fully independent and was upholding the highest standards of torture prevention. Most complaints of torture received by the Ombudsman's Office involved persons deprived of their liberty, and various mechanisms had been set up under the General Directorate of Prisons to ensure that prisoners could report cases of torture or ill-treatment without fear of reprisals.

22. **Mr. Limpias Esprella** (Plurinational State of Bolivia), speaking via video link, said that various measures had been taken to ensure that persons deprived of liberty could safely report acts of torture, including the installation of complaint boxes and books. Prisoners' relatives could also report acts of torture over a toll-free telephone helpline, the number for which was displayed in all prisons. The measures in place were such that organizations that carried out visits to prisons, including the Ombudsman's Office, could safely and securely share information on reports of torture with the General Directorate of Prisons for appropriate follow-up. In keeping with the principle of confidentiality, the identity of persons who filed reports of torture was protected. In that connection, 70 police officers had been reported to the internal investigation unit of the National Police, and 21 of those cases had been referred to the Public Prosecution Service. Moreover, the General Directorate had identified and dismantled various organized groups inside prisons that had been found to be responsible for abusing fellow prisoners.

23. **Mr. Lima Magne** (Plurinational State of Bolivia) said that the amendment of the definition of the offence of torture was under way. The process had involved consultation with national human rights bodies, and the proposed amendment was currently being assessed by the National Council on Economic and Social Policy. Its adoption was expected in the following months. Moreover, a comprehensive reform of the Criminal Code and Code of Criminal Procedure was due to begin in the near future. The Ministry of Justice and Institutional Transparency had already completed the preliminary phase of the reform and had launched consultations with stakeholders. Monitoring mechanisms would be set up to oversee the process. The State party would provide, in writing, information on the outcome of investigations of specific cases of torture that was on file with the Office of the Special Prosecutor for Offences against Life. With regard to the issue of lynchings and mob justice, he wished to reiterate that criminal proceedings were instituted in respect of all killings that occurred in Bolivia. The State party would provide information, in writing, on the outcome of the proceedings initiated by the Public Prosecution Service with respect to the 18 cases reported in Cochabamba and the 7 cases reported in La Paz.

24. **Mr. Ríos Sanjinés** (Plurinational State of Bolivia), speaking via video link, said that acts of mob justice were punishable under the criminal offences of bodily harm and, where appropriate, murder. As mentioned in paragraph 79 of the State party's replies to the list of issues, under the "My Safe Neighbourhood" Plan, which had been adopted to address the issue of citizen insecurity, tailored measures were being developed in cooperation with local communities. Thanks to a combination of preventive measures and community policing, the frequency of lynchings had been falling. Pursuant to article 6 of the Jurisdiction Demarcation Act (No. 073), which prohibited the death penalty, lynching could not be characterized as a form of indigenous original campesino justice. In the event that members of a community publicly apprehended a suspected criminal, law enforcement officers intervened immediately and, where appropriate, referred the case to the Public Prosecution Service.

25. **Mr. Lima Magne** (Plurinational State of Bolivia) said that, since the economic situation in Bolivia had begun to stabilize, additional budgetary and human resources were being allocated to the national police and the Public Prosecution Service.

26. In accordance with the case law of the Constitutional Court, civilians could not be tried by military courts and such courts were not competent to hear cases involving human rights violations. The powers of the military criminal courts had been and continued to be restricted, and the Ministry of Defence was working on amendments to the Military Criminal Code and Code of Military Criminal Procedure. Under the Military Justice Organization Act,

military courts were not competent to hear cases of torture, ill-treatment or human rights violations involving civilians or persons performing military service. A certificate issued by the Ministry of Defence which attested that the bearer had never been involved in a violation of human rights was required for any military personnel seeking promotion.

27. On behalf of the Ministry of Justice and Institutional Transparency, the Office of the Deputy Minister for Equal Opportunities and the Directorate General for Children had developed a public policy on the protection of children and adolescents which addressed the issue of corporal punishment. In accordance with that policy, the municipal authorities and school boards, which included students' parents, had the power to take immediate action in cases of suspected child abuse in schools or the community.

28. Corporal punishment in schools had been prohibited since 1993 under the regulations governing the teaching profession. Teachers applying forms of punishment that compromised children's dignity or physical integrity could be penalized under the Code on Children and Adolescents, and a policy had been introduced by the Ministry of Justice to address the abuse or mistreatment of students.

29. The de facto Government had taken no steps to implement Act No. 1173. The Commission for Follow-Up on the Conclusions of the Summit on Justice was now working to bring the criminal justice system up to date and ensure the full implementation of the Act.

30. There had been more than 1,300 children living in prisons in 2013; there were now 66. Children under 6 years of age stayed with their mothers in women's prisons. No children stayed in men's prisons. A decree that might be issued as soon as the following month would allow for the release of the mothers of those 66 children if they had committed minor offences.

31. **Mr. Limpias Esprella** (Plurinational State of Bolivia) said that the rate of prison overcrowding had decreased to 148 per cent in 2022 thanks in part to the provision in Act No. 264 of 2012 requiring subnational levels of government to help fund the development of prison infrastructure, which had led to the opening and expansion of provincial prisons. Government-approved projects for the construction or expansion of additional prisons were currently at the pre-investment stage. Those new infrastructure projects should facilitate the separation of pretrial detainees from convicted prisoners and allow the Government to exert more effective control over the prisons and put an end to prisoner-run privilege schemes.

32. Prison overcrowding had also been eased by the granting of pardons by presidential decree; more than 6,000 detainees had been released under such decrees between 2012 and 2021, and 796 more had been released under the most recent such decree. Women with children, persons with disabilities and members of other vulnerable groups were given priority in the granting of pardons.

33. **Mr. Lima Magne** (Plurinational State of Bolivia) said that the Government was developing non-custodial alternative measures. For example, the use of electronic ankle bracelets was expected to allow at least 500 persons in pretrial detention to be released from prison in 2022.

34. Act No. 1341 of 2020, on states of emergency, remained in effect. It called for the Legislative Assembly to monitor any use of force during a state of emergency and for national and international bodies to be informed if firearms were used. It permitted military personnel to participate in public safety operations only if the police were overwhelmed. The Government was drafting regulations governing the implementation of the Act on the use of firearms by the police and military. The Act had not been invoked since democracy had returned to the country, and none of the emergency measures taken during the pandemic under a public health emergency law had restricted the enjoyment of human rights.

35. Under Supreme Decree No. 4078, the de facto Government of Jeanine Áñez Chávez had granted police officers and military personnel complete immunity and free rein in their use of firearms, leading to the deaths of more than 35 Bolivians in the massacres of Sacaba and Senkata. More than 20 police officers and members of the military were currently in pretrial detention awaiting prosecution for their direct role in the killings. Charges would be filed against them in the first half of 2022, and the trials were expected to begin later in the

year. The prosecution of Ms. Áñez, which required a supermajority vote in the Legislative Assembly, was being prevented by opposition parties.

36. **Mr. Ríos Sanjinés** (Plurinational State of Bolivia) said that police and military forces had carried out joint operations pursuant to Supreme Decree No. 4078 under the leadership of the armed forces. No other such joint operations had since taken place in the country.

37. **Mr. Siles Bazán** (Plurinational State of Bolivia), speaking via video link, said that three standing inter-agency committees were being formed, with the support of the Office of the United Nations High Commissioner for Human Rights, to draft a government policy on comprehensive reparation, along with specific bills on the provision of reparation, and to maintain an ongoing constructive dialogue with victims of human rights violations that had occurred during the dictatorships and at Sacaba and Senkata.

38. **Mr. Lima Magne** (Plurinational State of Bolivia) said that the government bill to amend the Criminal Code essentially retained the existing definitions of the offences of rape and statutory rape because they had already been rectified under previous legislation. It also retained the existing definition of the offence of abortion, which was in line with the relevant Constitutional Court ruling.

39. Following the discovery of the bodies of two women in the home of a man under house arrest, it had come to light that the perpetrator had already been sentenced to 30 years' imprisonment for another femicide and had been ineligible for house arrest. An investigation had revealed other such cases. Of the 18 judges entrusted with sentence enforcement in the country, 12 had allowed such irregularities to transpire. Three of those judges were currently being prosecuted for judicial misconduct, collusion and bribery, and the other nine were under investigation. The perpetrators of crimes such as femicide who had been improperly released were being taken into custody once again. Inter-agency agreements had been signed to improve coordination, and an observatory for gender justice had been created.

40. The National Institute of Agrarian Reform monitored working conditions on ranches, farms and plantations. If it found evidence of forced labour or mistreatment of workers, the employer's land would be seized by the Government and the owner would lose title to it. The issue was being addressed by administrative means rather than judicial ones because there were currently more than 130 municipalities that lacked access to the justice system, as they did not have a single judge or prosecutor. There were essentially no known cases of families working as bonded labour. The practices of debt bondage and slavery, which had previously been found in certain regions of the country, had been eliminated.

41. **Mr. Chávez Serrano** (Plurinational State of Bolivia), speaking via video link, said that the passage of Act No. 1341 on states of emergency had represented a victory for the democratic process, as it had been the head of the Plurinational Legislative Assembly who had moved the bill forward when the country's de facto President had failed to do so. The range of issues facing the justice system would be addressed at an upcoming summit being organized by the Government.

42. **Ms. Tigroudja** said that she would appreciate further details about the forfeiture of employers' title to their land if the National Institute of Agrarian Reform found them to have been abusing their workers.

43. **Ms. Bassim** said that she wished to know what steps were being taken to address the shortage of personnel in the public defence service and the budget reductions that were limiting the access of persons deprived of liberty to public defenders. She was also still awaiting an answer to her question about the mechanisms available to persons deprived of liberty for filing complaints of torture, ill treatment or other human rights violations without fear of reprisals and ensuring that those complaints would be acted upon.

44. **Mr. Muhumuza** said that he wished to learn more about the human rights situation of Bolivians of African descent.

45. **The Chair** said that she would like to thank the delegation for their assurance that they would be providing information in writing to respond to Mr. Santos Pais's questions regarding protection against torture and mob violence, along with the requested statistics on abortions and information on sex education programmes in the country.

The meeting rose at 5 p.m.