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Summary record of the 3849th meeting

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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 (CCPR/C/BOL/4;
CCPR/C/BOL/Q/4; CCPR/C/BOL/RQ/4)*

1. *At the invitation of the Chair, the delegation of the Plurinational State of Bolivia joined the meeting.*
2. **Mr. Lima Magne** (Plurinational State of Bolivia), speaking via video link to introduce his country's fourth periodic report, said that, in his country, civil and political rights were protected under the Constitution, the jurisprudence of the Constitutional Court and the international agreements ratified by the Plurinational State of Bolivia. The provisions of those agreements took precedence over the Constitution when the rights that they established were more expansive than those set out in the Constitution.
3. Serious politically and ideologically motivated human rights violations had taken place between 4 November 1964 and 10 October 1982, when the country had been under the rule of dictators. Serious human rights violations, including summary executions and acts of torture, had also been committed following the coup d'état of late 2019, and impunity had reigned under the de facto Government that had assumed power at that time. Democracy had been restored through elections in which the current President had received 55 per cent of the vote.
4. Racism and discrimination against indigenous peoples had been among the structural causes of the coup d'état, as evidenced by the decision of the de facto Government to dismantle the Ministry of Cultures and Tourism, which had actively promoted the cultures of indigenous peoples. The Ministry's work to end racism and all forms of discrimination had been suspended during its closure, opening the way for the racially motivated confrontations that had been encouraged by the de facto Government. The current President had restored the Ministry under Supreme Decree No. 4393, renaming it the Ministry of Cultures, Decolonization and Depatriarchalization. The year 2022 had been declared the Year for Dismantling the Patriarchy.
5. The definition of the criminal offence of torture was being amended and aligned with international standards, as recommended by the Committee against Torture and the Interdisciplinary Group of Independent Experts. There had been a resurgence of acts of torture and racism while the de facto Government had been in power. Politicians, government officials and members of the general public had reported being detained and tortured, and members of electoral courts had been subjected to extrajudicial arrests.
6. An amnesty decree allowing for humanitarian pardons had been issued during the coronavirus disease (COVID-19) pandemic with the aim of easing congestion in prisons and preserving the health of persons deprived of liberty. The decree had then been repealed in response to concerns expressed by the Interdisciplinary Group of Independent Experts about the potential use of such pardons for political purposes. However, there had been no cases in which the decree had been applied improperly.
7. Human rights training courses were updated on a continuing basis and were attended by civil servants involved in a variety of areas of the criminal justice system, including crime prevention and prosecution. The Ministry of Justice and Institutional Transparency was developing a plan to revamp the justice system that would involve the use of alternative dispute settlement mechanisms and measures for strengthening the indigenous original campesino system of justice, as the residents of more than 100 municipalities currently had no access to the ordinary justice system because the municipalities lacked courts, prosecutors' offices and other related institutions.
8. The overhaul of the justice system would also entail measures for bolstering judicial independence. The Government had recently hosted the Special Rapporteur on the independence of judges and lawyers and had made all the necessary documentation available to him. It was also developing digital solutions to promote transparency in the administration of justice. Steps being taken to combat corruption and criminal activity in the justice system

included the recent arrest of six criminal court judges who had illegally released perpetrators of femicides and other serious offences against women. The Government would continue its efforts to safeguard women's right to a life without violence, uphold the rights of lesbian, gay, bisexual, transgender and intersex persons and promote marriage equality.

9. **Ms. Abdo Rocholl** said that she welcomed the references made to the Covenant and the Committee's Views in Constitutional Court rulings and wished to know whether lower court decisions also contained such references. She would like to find out to what extent the State party had implemented the recommendations contained in the Committee's Views on *Peñarrietta et al. v. Bolivia*, *Delgado Burgoa v. Plurinational State of Bolivia* and *Maldonado Iporre v. Plurinational State of Bolivia*. It would be helpful to know whether any mechanisms had been put in place to monitor follow-up to the Committee's Views and concluding observations and, if so, what impact they had had. She would be grateful for detailed information on any efforts to raise public awareness of the Covenant rights and their applicability under national law.

10. She wished to know whether any laws had been enacted to delimit the scope of the constitutional provisions on states of emergency, as recommended by the Committee in its concluding observations on the State party's third periodic report (CCPR/C/BOL/CO/3). The Committee regretted that the State party had not reported the emergency measures that it had taken to curb the spread of COVID-19 to the Secretary-General under article 4 of the Covenant.

11. She would be grateful for annual figures on the funding allocated for the implementation of the Act on the Elimination of Racism and All Forms of Discrimination (Act No. 045) during the years from 2014 to 2022 and for information on the actual impact of the Act, its related regulatory instruments and any mechanisms created pursuant to that law. She recalled that article 8 of the Act provided for the establishment of internal units for the prevention of racism and discrimination in all government institutions, and she would therefore appreciate receiving detailed information about exactly how many of those units were in operation and in which public bodies. Detailed information on the departmental committees for the prevention of racism and discrimination that had been set up in autonomous entities would also be welcome.

12. She wished to know how many complaints of racism had been lodged with the courts in total, how many administrative proceedings concerning racism had been initiated and how many sanctions had been imposed as a result. It would be helpful to have further information on the acts of racially motivated discrimination and violence that had occurred during the post-electoral crisis of 2019 and the steps taken by the Government in response. She would also appreciate information on the steps taken to provide comprehensive reparation to the victims of the incidents of racial violence that had occurred in Pando and Sucre in 2008. Details on progress in implementing the Multisectoral Plan of the Plurinational State of Bolivia to Combat Racism and All Forms of Discrimination 2016–2020 and on the time frame for the adoption of a new plan would also be useful to the Committee.

13. She wished to learn about any government measures for safeguarding the rights of trans persons and for ensuring the immediate registration of the births of children of same-sex couples and lesbian, gay, bisexual, transgender or intersex persons using assisted reproduction methods. She would appreciate an update on the proceedings before the Constitutional Court relating to same-sex unions. She wished to know how many applications for such unions had been denied and what steps the State party was taking to protect the rights of same-sex couples. What measures was the State party taking to investigate acts of violence against lesbian, gay, bisexual, transgender and intersex persons and to discourage hate speech directed at them?

14. **Mr. El Haiba** said that he would like to know what measures were being taken to implement the workplan mentioned in paragraph 12 of the State party's replies to the list of issues (CCPR/C/BOL/RQ/4) and what progress had been made towards amending the Criminal Code to remove the statute of limitations on acts of enforced disappearance. He would welcome information on the outcomes of the three investigations into cases of enforced disappearance mentioned in paragraph 14 of the State party's replies and an update on the measures taken to bring to justice all those who had committed human rights violations

between 1964 and 1982, including information on the total number of investigations carried out thus far and their outcomes. He wondered whether the Truth Commission's final report had been shared widely with victims and their families and with non-governmental organizations. He would also like to know what steps had been taken to ensure that victims and their families were granted access to archives and public records within a reasonable amount of time and how many requests for access had been granted.

15. He would appreciate an update on the status of the draft regulations concerning the payment of compensation to victims and on any action taken to revise the standard of proof that was used to determine eligibility for compensation. He would also welcome information on the way in which the appeal and review mechanism operated, the number of applications that had been reviewed and the extent to which the Ombudsman's Office was involved in the review process. He would like to know what measures had been taken to ensure that all recognized victims received the full amount of compensation that had been awarded to them, what other forms of reparation had been granted to victims and whether any memorials had been built or events organized to honour the memory of deceased victims.

16. **Mr. Santos Pais** said that he would be interested to know whether the impact of the Multisectoral Plan to Dismantle the Patriarchal System and Promote Women's Well-being had been assessed and, if so, what the results of that assessment had been. Was a follow-up plan being prepared in consultation with civil society? Although women accounted for around half of all members of the national and departmental legislative assemblies, there were very few women ministers in the Cabinet and only 16 per cent of local governors and mayors were women. He wondered what steps would be taken to further increase the representation of women, especially indigenous women and women of African descent, in decision-making bodies in both the public and private sectors and in the judiciary.

17. Unfortunately, the rise in the political participation of women had been accompanied by a significant increase in cases of political harassment and violence against women. He would like to know how many of the cases mentioned in paragraph 40 of the State party's replies had resulted in a conviction and what penalties had been imposed; what measures would be taken to improve the implementation of Act No. 243 on Political Harassment and Violence against Women; what was being done to strengthen the provision of legal support to victims and the protective and urgent action mechanisms that were in place; and whether the State party had considered amending Act No. 243 in order to bring it into line with the Inter-American Model Law on the Prevention, Punishment and Eradication of Violence against Women in Political Life. He wondered how the State party planned to put an end to the use of shared term agreements, under which elected representatives shared their term of office with their alternate, given that such agreements were widely considered a form of harassment or even extortion. He would also appreciate information on the status of the investigation into the murder of councillor Juana Quispe in 2012 and any plans to provide training to judges, prosecutors and police officers on women's political rights.

18. **Ms. Tigroudja** said that the State party had one of the highest femicide rates in Latin America and that the majority of perpetrators of femicide went unpunished. Violence against women and girls had reportedly increased during the COVID-19 pandemic, as victims had been unable to file complaints during the lockdown. She would like to know whether the State party planned to amend the legal definition of rape and the limitation period for the offence of rape in order to bring them into line with international law, to amend the provisions on statutory rape in order to combat impunity and to establish marital rape as a separate criminal offence. She wondered what measures were being taken to ensure the effective implementation of Act No. 348 of 9 March 2013 on violence against women, including in respect of transgender women. She would welcome information on any steps taken to ensure effective access to justice for victims of gender-based violence; the number of complaints filed, investigations opened and convictions handed down in cases of gender-based violence; and any protocols in place to ensure that the proceedings were conducted in such a way as to avoid the revictimization of victims and their families. She would also like to know more about the State party's policies on the provision of support to victims and their families.

19. The Committee welcomed Plurinational Constitutional Court decision No. 0206/2014 on access to abortion but remained deeply concerned by the major obstacles to obtaining safe and legal abortions that women and girls continued to face. It would be helpful if the

delegation could explain what was being done to remove those obstacles and to reduce the number of maternal deaths resulting from unsafe illegal abortions. She would like to know how many women had been prosecuted and convicted for having had an abortion, what measures were being taken to reduce the rate of adolescent pregnancy and how the State party planned to promote access to comprehensive sex education that did not perpetuate gender stereotypes.

The meeting was suspended at 4.05 p.m. and resumed at 4.20 p.m.

20. **Mr. Lima Magne** (Plurinational State of Bolivia) said that many of the concerns raised by the Committee related to human rights violations that had occurred under the previous Government, headed by former President Áñez. His Government did not support the approach that had been taken by that Government. The Constitutional Court referred to the Covenant in its decisions, which were binding on other courts at all levels of the justice system.

21. Under the previous Government, many victims of human rights violations had had to resort to submitting complaints to international bodies. The new Government hoped to settle those cases amicably by taking steps that would address the victims' concerns. In particular, it was drawing up legislation that would give effect to the recommendations made by the Committee in its Views concerning *Delgado Burgoa v. Plurinational State of Bolivia* and *Maldonado Iporre v. Plurinational State of Bolivia*.

22. The new Government fully agreed that the previous Government should have notified the United Nations of the state of emergency that had been declared on account of the pandemic. Two pieces of legislation had recently been enacted in order to better protect the rights of citizens during states of emergency, namely Act No. 1341 of 2020 and the Health Emergency Act of 2021. The Government was working hard to protect the right to health, including through its vaccination campaign, thanks to which more than 12 million vaccinations against COVID-19 had been administered free of charge.

23. Several government bodies responsible for combating racism and other forms of discrimination had been dissolved under the previous Government. As a result, progress in that area had slowed considerably. The new Government had immediately reinstated those bodies in the form of the new Ministry of Cultures, Decolonization and Depatriarchalization, which was working tirelessly to implement a multisectoral plan to combat discrimination. The Government was committed to ensuring that cases of discrimination were properly investigated and prosecuted. That included the incidents of racial violence that had occurred in Pando and Sucre in 2008, which were currently being litigated. In the past, some cases had moved through the courts so slowly that they had come to be considered time-barred, but the current Government was rectifying that situation since, as the Committee was well aware, the offences that had been committed in those instances were not subject to a statute of limitation.

24. **Mr. Ríos Sanjinés** (Plurinational State of Bolivia), speaking via video link, said that disaggregated data on the budget allocated for combating racism and all forms of discrimination had been made available by the Ministry of Cultures, Decolonization and Depatriarchalization. Significant progress had been made in combating discrimination. For example, between 2019 and 2021, over 13,000 police officers had received training on human rights and non-discrimination in the context of the Decade for People of African Descent. In addition, a protocol for the registration and processing of cases of racism and all forms of discrimination in the civil service had been adopted with a view to providing the authorities with a practical tool for combating racist and discriminatory practices and attitudes among public servants. Racism and discrimination were specific offences in the Criminal Code, as amended by the Act against Racism and All Forms of Discrimination (Act No. 045).

25. A comprehensive evaluation of the implementation of the Multisectoral Plan to Eliminate Racism and All Forms of Discrimination 2016–2020 had been carried out. A new multisectoral plan covering the period 2021–2025 would soon be adopted to support the implementation of the Economic and Social Development Plan 2021–2025.

26. **Mr. Lima Magne** (Plurinational State of Bolivia) said that the strengthening of the administrative framework for dealing with cases of racism and discrimination represented a

major step forward. The Ministry of the Interior was taking action against police officers who had committed serious acts of discrimination against indigenous peoples, such as burning the Wiphala flag. As a result, police officers of various ranks were being prosecuted, punished and dismissed. It was hoped that the swift progress made in that regard could be consolidated.

27. With regard to same-sex unions, the Minister of Justice and the Attorney General had urged the Plurinational Constitutional Court to render a decision on the pending applications in order to resolve the question. The executive had expressed concern that the established time limit for the processing of applications had not been respected.

28. **Mr. Siles Bazán** (Plurinational State of Bolivia), speaking via video link, said that the Truth Commission's final report on the human rights violations committed between 1964 and 1982 had been widely disseminated among State bodies. A review of the conclusions and recommendations set out in the report had been conducted, and follow-up action was currently under way.

29. Several of the Commission's recommendations concerned reparations. Applications for reparations were assessed and beneficiaries screened in accordance with Act No. 2640, which also provided for a review procedure. The National Congress had paid public tribute to all the victims of political violence or their legal successors. Another of the Commission's recommendations concerned the establishment of a house of memory in coordination with the Ministry of Cultures, Decolonization, and Depatriarchalization and other institutions. The plans for that structure had been developed and were awaiting approval. The Ministry of Justice and Institutional Transparency was working to develop the alternative mechanisms provided for by Act No. 2640 to cover the remaining 80 per cent of the reparations to which victims were entitled.

30. **Mr. Lima Magne** (Plurinational State of Bolivia) said that military archives had been opened to facilitate the work of the Interdisciplinary Group of Independent Experts. A house of memory would be established in each of the country's nine departments with a view to ensuring that the crimes perpetrated during the dictatorships of 1964–1982 and during the latest period of dictatorship were never forgotten. In cooperation with the Office of the United Nations High Commissioner for Human Rights, the Government was drawing up working protocols in preparation for the forthcoming adoption of legislation to ensure that full reparation was made to all victims.

31. Women were well represented in political life. For example, more than 50 per cent of the members of the Plurinational Legislative Assembly were women, although it was true that none of the nine departments had a woman governor. Measures were being taken to replicate the success achieved in 2012, when women had occupied half of the most senior positions in the judiciary. The Government was committed to ensuring gender equality.

32. Violence and harassment against women had occurred under the *de facto* Government. For example, when Adriana Salvatierra had been President of the Senate, the Act on Political Harassment and Violence against Women (Act No. 243) and related regulations, which provided that resignations of women holding elective office must be submitted personally and voluntarily to the Plurinational Electoral Bureau, had not been respected. In response, the Counsel General had initiated criminal proceedings in cases dealing with the issuance of unconstitutional or unlawful directives and non-fulfilment of duties.

33. The Government supported the Bolivian Association of Women Councillors in its work to secure convictions in cases of violence and harassment. Efforts were being made to expedite proceedings in the case of Juana Quispe, which remained at the indictment stage.

34. Since the current President had assumed office, there had been 113 cases of femicide, in respect of which the courts had already rendered 39 judgments. Eight of the perpetrators had committed suicide at the time of the offence. Of the remaining cases, 33 were at the indictment stage and 8 were at the preparatory stage; 15 cases had been dropped by the Public Prosecution Service, but the decision to refrain from pursuing those 15 cases had been challenged by the Ministry of Justice, which was currently litigating them. The offence carried a penalty of 30 years' imprisonment without the possibility of a pardon.

35. The President had recently established the National Committee on Follow-up to Cases of Femicide, which was chaired by the Minister for the Presidency. Its members included various ministers, the Counsel General, the Attorney General, the President of the Plurinational Constitutional Court, the President of the Supreme Court, the President of the Council of the Judiciary and the Chief of Police. The National Committee was working to combat impunity for femicide. Owing to failures on the part of the previous Administration, men who had been convicted of the offence had been able to avoid imprisonment. The current Government had prosecuted at least nine sentence enforcement judges, and four such judges were in pretrial detention for having released persons charged with femicide and other serious criminal offences. In that connection, the President was determined to overhaul the justice system in order to restore judicial independence and ensure that international human rights protection standards were respected. The Special Rapporteur on the independence of judges and lawyers had recently visited the Plurinational State of Bolivia and had stated that no political persecution was taking place in the country.

36. Legislation had yet to be passed to institutionalize the decision of the Plurinational Constitutional Court on the question of abortion. Nevertheless, the Ombudsman was playing a leading role in ensuring compliance with the Court's decision and was supporting the implementation of the recommendations regarding therapeutic abortions made by the Committee on the Elimination of Discrimination against Women and other international bodies. In accordance with the Court's decision, a therapeutic abortion could be carried out if the pregnancy was due to incest or rape or if the mother's life was at risk. The direct application of the decision was being hampered by the actions taken by some judges and prosecutors, however. Nevertheless, the Ministry of Health had developed a protocol on the matter, and legal action was being taken to protect the human rights of women who had been persecuted for having had an abortion. As a complementary measure, a policy had been adopted to address the issue of teenage pregnancy.

37. **Mr. Chávez Serrano** (Plurinational State of Bolivia), speaking via video link, said that investigations continued to be carried out in an effort to locate the remains of victims of enforced disappearances that had occurred during the dictatorships of 1964–1982. In October 2021, the remains of a young man who had been shot in 1980 had been returned to his family. An investigation had yet to be carried out to identify the perpetrators of that murder.

38. As part of the effort to disseminate the final report of the Truth Commission, in which the Ministry of Foreign Affairs had played a role as well, it had also been posted on social media.

39. Recommendations such as those made by the Committee in its *Views on Delgado Burgoa v. Plurinational State of Bolivia* and *Maldonado Iporre v. Plurinational State of Bolivia* were not binding on the State under national law. Nevertheless, to overcome technical obstacles to the implementation of those recommendations, the Government planned to make use of amicable settlement agreements. A bill for that purpose was currently before the Chamber of Deputies.

40. With regard to the systematic human rights violations that had taken place in 2019, legal action had been taken in various cases. The investigations were ongoing, and some cases were already before the courts.

41. **Mr. Lima Magne** (Plurinational State of Bolivia) said that a report on the progress made in guaranteeing a violence-free life for women would soon be submitted to the Office of the President. Efforts were being made to build a broad-based consensus on the need to strengthen the Comprehensive Act on Guaranteeing Women a Life Free from Violence (Act No. 348). To prepare the necessary amendments, the Ministry of Justice had analysed over 1,000 proposals from civil society organizations and had worked with all the relevant State bodies.

42. Act No. 1005 had been passed to ensure the very highest standards of human rights protection in respect of such offences as violence against women, enforced disappearance and torture. However, following opposition from conservatives, the Act had been repealed. With a view to restoring some of the key provisions of the Act, the Ministry of Justice would soon submit a bill to amend the Code of Criminal Procedure and was working on a bill to amend the Criminal Code. The task of consolidating any progress made on the legislative

front represented an ongoing challenge. For example, the Government's efforts to combat illegal enrichment had led to a strike in Santa Cruz lasting over nine days.

43. **Mr. Santos Pais** said that, in general, there seemed to be a disconnect between the efforts made by the Government to develop protocols and the results achieved in practice. With regard to harassment, for example, the high number of cases recorded between 2010 and 2019 had led to only one conviction.

44. Although the Committee's Views were not judicial decisions, they were binding on States parties to the Optional Protocol to the Covenant. It should not be necessary to resort to amicable settlement agreements in cases in which the Committee's Views had been published.

45. **Ms. Abdo Rocholl** said that it was surprising to hear that the State party did not consider the Committee's Views to be binding. It was noted in the State party's replies to the Committee's list of issues that the Constitutional Court had recognized the binding nature of the decisions and guidance of the human rights treaty bodies, including the Human Rights Committee, as contained in their general comments and individual communications ([CCPR/C/BOL/RQ/4](#), para. 7). The Committee's Views were the product of lengthy deliberations, and she noted with concern that some of the Committee's Views concerning the State party had yet to be implemented. A law on amicable settlement agreements was not an acceptable solution.

The meeting rose at 5.05 p.m.