



**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**

Eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC) OF THE 75th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 17 April 2008, at 10 a.m.

Chairperson: Mr. EL JAMRI

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 73 OF THE CONVENTION (continued)

Initial report of Bolivia (continued) (CMW/C/BOL/1; CMW/C/BOL/Q/1 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Bolivia took places at the Committee table.

2. Ms. URENA (Bolivia) said that it was difficult for Bolivia to gather statistical information on migration because of its geography. While statistics were gathered at the main points of entry into the country, which were staffed by officials, Bolivia shared its borders with five countries, which meant that it was impossible to monitor migration from all sides. People in the communities along the border went about their daily lives as if the border did not exist, interacting with neighbouring communities that were in fact situated in another country. Many people on the two sides of the border with Brazil spoke both Spanish and Portuguese.

3. The effects of migration on those left behind was an important issue for both the Government and civil society organizations. A nationwide study had been launched by the Ombudsman to investigate the issue in Bolivia. Preliminary results showed that children and adolescents were most affected. Mothers tended to migrate rather than fathers because it was easier for women to find work abroad, for example, looking after elderly people in Spain. The estimated 10,000 to 12,000 foreigners entering Bolivia every day included tourists, business travellers and migrants.

4. The Alternative South American Meeting on Migration (Encuentro Alternativo Sudamericano de Migraciones) was the civil society equivalent of the South American Conference on Migration, held annually by Latin American Governments to discuss migration issues and policy. In 2004, both conferences had been held simultaneously in La Paz. The Fifth South American Conference on Migration had published the La Paz Declaration recognizing the rights of migrant workers as contained in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The civil society organizations involved in the Alternative Meeting had also produced a declaration recognizing the importance of migrant workers' rights. The Eighth South American Conference on Migration would be held in Montevideo, Uruguay, in 2008.

5. There was no law prohibiting foreigners residing in Bolivia from joining trade unions and there were many Peruvian residents, in particular, involved in political and trade union activities. Only workers in permanent employment - foreigners and nationals - were eligible for social security. The employers of temporary workers did not have to pay social security contributions for their employees. Foreigners in Bolivia shared the same opportunities as Bolivians, but also shared the problems and difficulties faced by Bolivian nationals. The Government recognized those problems and had plans to extend the social security system to cover everyone in the future.

6. With regard to access to health services, a scheme had been set up for all mothers before and after giving birth and for children up to the age of 5 (Universal Health Insurance for Mothers and Children, or SUMI), covering both nationals and foreigners. The Government had plans to extend the health service to cover everyone in the future.

7. There were no restrictions on foreigners taking up employment in Bolivia, although there was a general lack of work, which affected both Bolivians and foreigners. The Government was aware of the problem and, through its National Development Plan, was promoting the establishment of microenterprises and the industrialization of Bolivia's gas resources in order to create jobs.

8. Both nationals and foreigners had free access to basic education. There was an entrance examination for some public universities because only a limited number of places were available. However, both nationals and foreigners could sit the examination.

9. Ms. DIEGUEZ asked whether children born in Bolivia to foreign parents who were in an irregular situation had difficulties enrolling in school, for instance, whether they might lack the necessary documentation. She said that as Bolivia observed the principle of *jus soli*, any child born in Bolivia was a Bolivian national.

10. Mr. ALBA, referring to paragraph 66 of the written replies to the list of issues, requested clarification regarding the personal intervention of consuls in cases of human trafficking involving Bolivian nationals, and asked whether that intervention was regulated by specific provisions or formed part of a procedure.

11. He requested further information on the residents' centres (*centros de residentes*), referred to in the reply to question 22, including whether foreigners were required to register. Referring to paragraph 71 of the written replies to the list of issues, he asked why there was such a discrepancy between the number of passport applications received (8,000) and the number of passports issued (3,600).

12. Mr. KARIYAWASAM said that he had no doubts regarding the commitment of the President of Bolivia to the issues confronting migrant workers in Bolivia and expatriate Bolivians and the Committee would support the efforts of his Government through its recommendations in a spirit of cooperation. He asked what institutional mechanisms were in place to offer support to returning Bolivian migrant workers, with a view to helping them resettle, and which ministry was responsible for providing those services. If such facilities did not exist, the Committee could offer a recommendation in that respect.

13. Mr. SEVIM said that the delegation's answers thus far had demonstrated that the principle of non-discrimination was respected in Bolivia. However, that principle should also be made to apply to the social security system, which did not cover temporary workers. Migrant workers often found it more difficult than nationals to find permanent employment and they were therefore in a disadvantaged position in relation to national workers with respect to social security.

14. With regard to freedom of association, he said that it was good that foreigners could join trade unions, and asked whether they could also find such organizations or be involved in their governing bodies. He asked whether foreigners could work in all sectors, and whether restrictions applied to the public sector. He requested additional information on family reunification, in particular, whether migrant workers had to meet certain conditions before their spouses could join them, or whether there was a minimum required income or a waiting period. He asked whether spouses were immediately granted the right to work upon arrival and whether the children involved had access to public education.

15. Mr. BRILLANTES said that the Committee favoured a rights-based approach and that the rights of migrant workers were a shared responsibility between home and host countries. He asked who was responsible for repatriating the remains of deceased Bolivian migrant workers and whether it depended on the circumstances.

16. The CHAIRPERSON asked how the different bodies dealing with migration issues, for example the National Migration Board, the National Migration Service (SENAMIG), the National Department of Migration and the section of the Ministry of Foreign Affairs responsible for Bolivian migrant workers, were coordinated and whether that coordination was effective in terms of implementing the national migration policy.

17. He requested further information concerning the seminars on migration issues that were being organized, in particular with regard to their potential influence on migration policy. According to the information received from civil society organizations concerning the migration legislation in force, there had been complaints regarding the waiting period in the regularization process. He asked how long migrants had to wait and noted that they faced particular difficulties during that period owing to the lack of protection.

18. He requested additional information on the three categories of migrants recognized under Bolivian law, and asked when the definitions had come into force. Recent statistical information on the three categories would be desirable, as well as on the distribution between them of the 12,000 people arriving at Bolivia's borders every day. He asked whether 12,000 people were processed each day, or whether they might be the same 12,000 people returning each day until their cases were decided.

19. He noted that a third of all Bolivian migrant workers headed for Spain and that many of them were in an irregular situation. Recently, the Spanish Government had regularized the situation of many migrant workers and he enquired whether Bolivian migrant workers had benefited from that measure and, if not, why not.

20. As Bolivia shared its borders with five other countries, it could not solve the problems associated with the fluid migration of people in the region on its own. He asked whether regional policies existed and what role Bolivia played in the exchange with neighbouring countries.

21. Ms. URENA (Bolivia) said that children born in Bolivia to foreign parents who were in an irregular situation were recognized as Bolivian nationals under Bolivian law, so that there were no restrictions on their enrolment in the public education system. With regard to the question on the personal intervention of consuls, she said that, because of the country's limited financial resources, Bolivian consulates were often small and employed few officials, with the result that

the consul often intervened personally if a problem arose. She cited the example of a consul in Italy who had personally intervened in the case of an 18-year-old Bolivian girl who was being held against her will and threatened with sexual violence.

22. She clarified that residents' centres were organized not by the Bolivian authorities but by foreign residents themselves; the centres organized cultural and social activities designed to promote the co-existence of Bolivian and other Latin American cultures. The issuance of 3,600 passports to Bolivians in Spain had been mentioned earlier simply because it was a large number of passports to have been issued at one time; other, smaller quantities of passports had also been issued. Bolivia would welcome ideas or recommendations from the Committee regarding measures to help migrants return to their country of origin.

23. The issue of temporary workers without social security affected the population as a whole, not just migrants. That situation had arisen under the previous Government; the current Government had passed a law obliging employers to ensure that all workers had social security coverage. The law was not always applied, but efforts were being made to enforce it.

24. There was nothing in Bolivian law to prevent foreigners from starting trade unions. Moreover, foreign nationals had access to all spheres of employment, including the civil service; for example, one of the President's recent advisors had been a Peruvian national.

25. The Government had not yet drawn up legislation on the issue of family reunification, but would welcome the Committee's recommendations in that respect. Legal formalities for foreign spouses of Bolivian nationals lasted two to three weeks; following that, the foreign spouse had access to all spheres of employment, including in the public sector.

26. The South American Conference on Migration was an example of regional consultation on migration issues. Whereas the focus of the Conference had formerly been on security issues, it had increasingly switched to human rights. With regard to bilateral relations in the field of migration policy, several examples of bilateral agreements had already been provided in the replies to the list of issues; she would shortly provide further information on more recent agreements. The regional level where most progress had been made was in the South American Common Market (MERCOSUR), as illustrated by the *Patria Grande* programme. Workers from MERCOSUR countries enjoyed complete freedom of movement within the region.

27. Turning to the issue of repatriation of the deceased, she said that when Bolivian nationals died abroad, the Bolivian Foreign Ministry facilitated procedures but did not have the resources to contribute to the cost of repatriating the body. Those costs were usually borne by the national airlines as a gesture of solidarity.

28. Ms. NAVARRO (Bolivia) said, by way of a preliminary answer to the question about possible obstacles to the regularization of Bolivian nationals in Spain, that there had been a surge in the migration of Bolivians to Spain during a period that had not been covered by the recent measures taken by the Spanish Government. Consequently, a number of Bolivians had not lived in the country long enough to benefit from those measures.

29. Mr. ALBA (Rapporteur) said that the Bolivian delegation, in its written replies, had referred on several occasions to the *Patria Grande* programme. However, that was an Argentine programme, and had not been negotiated through MERCOSUR, of which Bolivia was an associate member. He asked whether, in the context of Bolivia's planned new Constitution and migration policy, there were plans to push through within MERCOSUR - or more broadly - a similar policy for free movement of migrant workers.

30. Mr. EL-BORAI said that he had not received an answer to his question concerning the three categories of immigration.

31. Mr. BRILLANTES (Vice-Chairperson) said that while the Bolivian delegation was to be commended on the impressive efforts already made, he did not feel that a complete picture of the situation in Bolivia had been provided. He hoped that the delegation would build on those efforts, and supply additional information, in order to enable the Committee to complete its work of drafting concluding observations and recommendations.

32. Ms. URENA (Bolivia) said that while Bolivia was an associate member of MERCOSUR, it was a full member of the Andean Community, throughout which zone free movement of nationals of Andean countries already existed. It was envisaged that such freedom of movement would be extended to workers in the near future. The *Patria Grande* programme had originated within the framework of MERCOSUR. Negotiations were underway to merge MERCOSUR and the Andean Community, in line with the political will of South American States. The Bolivian Government was committed to extending regional integration, and the free movement of workers throughout the region.

33. With regard to the question concerning the different categories of migration (spontaneous, planned and selective), she said that the relevant supreme decree had almost never been applied. The only possible instance of planned migration she could think of was that of Japanese citizens to Bolivia following the Second World War. The three categories were therefore purely theoretical, and the draft legislation on migration that was being prepared would clarify that matter.

34. Ms. NAVARRO (Bolivia) said that the Bolivian Government was fully committed to the promotion and protection of all human rights, as demonstrated by the country's new Constitution, and to the fulfilment of its international obligations. It was also committed to improving the living conditions of all residents in Bolivia, and those of Bolivian migrants. Bolivia did not actively promote migration, but sought to ensure that it took place in the best possible conditions. She gave examples to illustrate the new "open door" approach of the current Government towards migrants, including details of the active, innovative role played by Bolivian consulates abroad.

35. She looked forward to the establishment of a branch of the Office of the United Nations High Commissioner for Human Rights in her country, and to its support in implementing the Committee's recommendations and those of other United Nations human rights bodies.

36. She suggested that there should be better coordination among the various units of the Office of the United Nations High Commissioner for Human Rights, so that developing countries did not find themselves in the position of having to submit more than three reports in four months. Requests to postpone the presentation of State party reports should be taken into account, when justified.

37. The CHAIRPERSON commended the Bolivian delegation on various aspects of its work with the Committee, including the involvement of civil society in the preparation of the State party report, the reform dynamic under way, and the value placed on migration as a contributing factor to development. However, those aspects did not justify the shortcomings highlighted by the Committee. It was his hope that, in the context of the reform, draft legislation concerning the Convention would be given pride of place, in order to ensure its more effective implementation.

The public part of the meeting rose at 11.30 a.m.