



**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 74th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 16 April 2008, at 3 p.m.

Chairperson: Mr. EL JAMRI

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 73 OF THE CONVENTION (agenda item 5) (*continued*)

Initial report of Bolivia (CMW/C/BOL/1, CMW/C/BOL/1/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. The CHAIRPERSON welcomed the Bolivian delegation and its head, Ms. Navarro Llanos, Permanent Representative of Bolivia to the United Nations Office at Geneva. He thanked the delegation for its introduction of Bolivia's initial report under article 73 of the Convention and written replies to the list of issues, but regretted that no one had come from the country's capital to talk to the Committee and that, because of its late receipt of the replies to the list of issues, the Committee had had to work from the Spanish original, causing some members problems. The Committee had examined the report on the basis of expert knowledge of the situation in Bolivia and of information from Bolivian and international civil society organizations and United Nations agencies and treaty bodies. He hoped for cooperation between the delegation and the Committee with a view to better application of the Convention in Bolivia and invited Ms. Navarro Llanos to introduce the report.

3. Ms. NAVARRO LLANOS (Bolivia) conveyed to the Committee cordial greetings from the Bolivian Minister for Foreign Affairs and Worship, Mr. David Choquehuanca Cespedes, who was unable to be present. Her delegation's small size was attributable to reasons beyond the Bolivian authorities' control and to budgetary considerations.

4. Bolivia was currently undergoing very substantial social, political and economic change. The Government, which had taken office in 2006, and the country's first indigenous President were working to enable the Bolivian people to recover its dignity. The State apparatus, a legacy of neoliberal governments that had served only their own interests, was very bureaucratic and conservative. The current authorities were striving to change that and intended *inter alia* to bring the country up to date in its submission of reports under the human rights instruments to which it was a party. In 2007, an official visit to Bolivia by the United Nations High Commissioner for Human Rights, Ms. Louise Arbour, had led to the signing of an agreement for the opening in La Paz of an office of the Office of the High Commissioner. Bolivia's efforts in support of human rights were internationally recognized, as the country's election to the Human Rights Council for 2007-2010 showed.

5. Migration had expanded considerably with globalization and in the space of a few years Bolivia had become a receiving country, a transit country and a country of departure for migrants. It had unreservedly ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 16 October 2000. While it did not yet have the institutional machinery to meet all its obligations under the Convention, its law contained provisions covering the rights of the people concerned. In addition, the State, supported by civil society organizations, was constantly conducting activities to publicize and promote the Convention, with a view to establishing think tanks and drafting a migration bill that took into account the national and international contexts.

6. According to figures from the country's Ombudsman, 20-25% of Bolivia's population currently lived abroad, mainly because of unemployment and poverty. The main destination countries were Spain, the United States of America and Argentina. The Government had put in place a National Development Plan to promote micro-business, strengthen industrialization and create new sources of employment. Conscious that the great majority of Bolivian emigrants were in an irregular and therefore vulnerable situation, the Government strove to integrate the human rights dimension in the bilateral and international agreements it concluded and to improve the services provided to Bolivians by the country's consulates. For example, the "mobile consulate" system, whereby consulate staff went to neighbourhoods inhabited by Bolivians, was in use in Argentina, Spain and the United States. In addition, new consulates had already been opened in cities with large Bolivian populations, including Cuzco in Peru, Viedma in Argentina and Valencia and Murcia in Spain, and others would soon follow. Thanks to the modernization of procedures at her country's Spanish consulates, Bolivians could register there by computer. Communication between consulates and between consulates and Bolivian nationals had been improved, including by the opening of consulate web sites.

7. Bolivia, as an associate member of the South American Common Market, MERCOSUR, was a beneficiary of Argentina's *Patria Grande* programme, under which the situation of Bolivians living in Argentina could be regularized. It intended to draw on that experience in drafting its own future law on migration.

8. In the present circumstances, the National Migration Board's main activities were to promote and publicize migrants' rights, collect the complaints of migrants living in and outside Bolivia and contribute towards the drafting of a migration bill for submission to the National Congress.

9. In Bolivia, civil servants still viewed migration from the standpoint of security and not of human rights and it would be some time before their attitude changed.

10. According to the National Statistical Institute, the population of Bolivia comprised approximately 1% foreigners, most of them from neighbouring countries. That represented fewer than 100,000 people, although the figure could rise during the soya bean and sugarcane harvests in particular.

11. With respect to services from the State, the law provided for equal treatment for Bolivians and foreigners. Some public officials did, however, display discriminatory attitudes, particularly towards Peruvians, and the Government encouraged people who had suffered such negative behaviour to complain to the Ombudsman, who had a team of professionals equipped to meet the needs of migrants, refugees and asylum-seekers. Integration of the peoples of the region was one of the Government's principles and discrimination therefore contravened official policy. The bureaucratic nature of the State apparatus inherited by the present authorities delayed the issue of documents. The International Organization for Migration (IOM) was currently financing a project for the installation of the computer hardware and software needed by offices of the National Migration Service.

12. Regarding human trafficking, Law No. 3325 of 2006 defined both the offences and the penalties for them; the latter were more severe when the victims were children or adolescents. Bolivia needed to establish shelters for victims of trafficking, and the Government wanted to

work in that regard with civil society organizations and the Ombudsman, but lacked the necessary funds. The authorities were working with civil society organizations to train civil servants to treat victims of trafficking appropriately and not to confuse them with the culprits. The Government acknowledged that unscrupulous people had used Bolivian territory for the trafficking of persons from other continents. The National Council on Human Trafficking, comprising representatives of ministries and civil society organizations, met constantly to set up robust machinery concerning trafficking.

13. The Government considered international cooperation extremely important for improving national instruments to protect migrants' rights and wished to continue its action to enable migrants fully to enjoy their rights under the Convention and other human rights instruments.

14. Ms. DÍEGUEZ ARÉVALO (Country Co-rapporteur) welcomed Bolivia's progress in protecting migrant workers' rights, especially the measures to assist Bolivians abroad such as consular registration irrespective of their status in the eyes of migration authorities. She was aware of the difficulties stemming from the very bureaucratic nature of the Bolivian administration and the differences between a human rights-based and a security-based approach to migration. The seminars on migration policy and human rights held for government organs were very important for closer coordination of the activities of the Public Prosecutor's Office and the Ombudsman in particular.

15. The Committee took note of the establishment of the Inter-Agency Commission for the Elimination of Child Labour and of the national plan for poverty eradication. Some children were still working in agriculture and in mining, activities that according to one NGO only gave rise to internal migration. The delegation should provide more information about that and say in particular whether migrant children were employed in those branches of activity.

16. Machinery being needed to combat human trafficking, she welcomed the establishment of the Technical Human Trafficking and Smuggling Board.

17. Up-to-date, detailed data on migratory flows was necessary to understand migration and try to find solutions to the problems it caused; the initial report did not contain enough. Figures for the number of Bolivians living abroad differed widely, the Bolivian authorities putting it at 1.7 million, IOM at 2 million and one NGO at 3 million.

18. She hoped the delegation would provide clarification about remittances by Bolivians abroad, for the figures given in the report seemed inconsistent. She would also like more information on the IOM-supported computerization project at the Cochabamba and La Paz airports.

19. To judge from the report, there were differences of opinion between the Ministry of Foreign Affairs and the National Migration Service and the National Migration Board was not yet operational. The Committee would like to know what was being done to help the Board start work and the other two bodies to cooperate more closely.

20. As Supreme Decree No. 24423 on the legal regime of the National Migration Service was not a law as such, Bolivia had no real migration law. Furthermore, many of the decree's articles

had been declared unconstitutional. It was important for Bolivia to introduce more comprehensive legislation on migration.

21. She requested further information on the industrial free zones and asked whether Peruvians were the only migrant workers employed there.

22. Cooperation with civil society was very important, but Bolivia had said no NGOs had taken part in drafting the report. The country should follow the example of the States which drew on the work of NGOs, some of which were very combative and harsh on governments. The Committee would appreciate receiving more information about the situation of NGOs in Bolivia.

23. She also requested more information on the working conditions of migrant women in Bolivia the proposed amendment of Supreme Decree No. 24423, the progress of the negotiations on bilateral agreements with Argentina, Brazil and Spain, Peruvian immigrants' difficulties in regularizing their situation and the measures taken to implement the law against human trafficking. She asked how extensive such trafficking was in Bolivia and what mechanisms there were for identifying and assisting victims. Referring to the stigmatization of Peruvian immigrants in the media, she asked what particular problems there were with that population group.

24. Mr. BRILLANTES (Country Co-rapporteur) regretted that Bolivia had not sent a larger delegation including in particular representatives of the ministries that dealt with migration. He requested concrete information concerning reports that women and children, especially of indigenous origin, were trafficked within the country and to Argentina, Chile, Brazil, Spain and North America for the purposes of commercial exploitation. Noting that priority seemed to be given to protecting victims, he asked what measures the Government had taken to prevent human trafficking. He expressed regret at the lack of statistics to give the Committee a clearer idea of the situation of migrant workers in Bolivia and called on the country to remedy it. He hoped the delegation would provide information on NGOs' contribution to the report, any concrete measures taken to harmonize Bolivian law with the Convention and the opportunities for Bolivians abroad to exercise their right to vote. He also wished to know what benefit Bolivia got from migration.

25. Ms. CUBIAS MEDINA said that the report provided little information on Bolivia as a transit and destination country. She wished in particular to know more about the situation of clandestine immigrants and the authorities' treatment of them in the event of their arrest. According to some sources, they were held in the same detention centres as criminal offenders, a matter on which she would like the delegation's opinion.

26. Mr. KARIYAWASAM expressed surprise at reading in paragraph 201 of the report that the National Department of Migration had not provided information requested by the Committee because it was not its responsibility to do so. He hoped that failure to cooperate and the absence of representatives from the capital were not signs of a lack of interest on Bolivia's part in the Convention. Noting with satisfaction that Bolivia was among the few countries to have enfranchised resident foreigners, he asked whether Bolivians abroad could also exercise their right to vote. He would like more information in general on Bolivians who worked abroad and the way their Government protected them.

27. Mr. ALBA asked about the status of international human rights instruments in Bolivian law and in particular whether the Convention took precedence over domestic law. He also requested information on the judicial machinery for examining complaints by migrant workers of violation of their rights and for compensating them in the event of damage. He welcomed the establishment of the National Migration Board and asked whether that body also dealt with Bolivians abroad.

28. There were numerous positive points in the replies to the list of issues, but he would like more information concerning them. For example, he wondered who were the 10,000 to 12,000 foreigners mentioned in paragraph 3 of the replies, for they could be tourists, frontier or migrant workers or immigrants, and what were the mechanisms for regularizing workers in the free zones mentioned in paragraph 8. He found it surprising that the Ombudsman carried out studies (paragraph 17), since his function was more to carry out investigations. He would like to know the meaning of the word "alternative" in the context of the Alternative South American Encounter on Migration referred to in paragraph 21. The replies to questions 9 and 10, which were particularly important to the Committee, were too short; much more needed to be said, for example, about the procedures and bodies for examining complaints relating to labour issues, especially those lodged by migrant workers.

29. Mr. SEVIM asked whether the mobile consulates mentioned by Ms. Navarro Llanos provided the same services as ordinary consulates and whether they defended the rights of Bolivians abroad. He would like to know whether any particular limits, such as time or ages limits or income thresholds, applied in the case of family reunification; whether, after reunification, family members had to satisfy particular conditions in order to obtain residence or work permits, and whether the children had access to education. He also wondered whether, regarding family reunification, there was any positive discrimination in favour of, for example, Latin Americans. It would be helpful to know whether migrant workers were entitled not only to join trade unions but also to be among their founders or leaders. He wished to know whether there were, as he understood was the case, restrictions on foreigners' access to employment, whether Bolivians' foreign remittances were taxable and what conditions applied to remittances by migrant workers in Bolivia to their countries.

30. Mr. EL-BORAI requested more information about the structure of the National Migration Service, about its component parts and their powers and about the legal differences between the three categories of immigration mentioned in paragraph 51 of the report. Further to Mr. Sevim's question about freedom of association he wished to know whether the Central Obrera Boliviana, which represented Bolivian workers, also represented foreign workers or whether they had their own trade union. He understood from paragraphs 128 and 129 of the report that Bolivian law surprisingly did not provide for social security coverage for migrant workers or their families. The section of the report that dealt with articles 29 to 31 of the Convention did not say whether the children of migrant families were entitled to enrol directly in public schools; it was important to know if they were. He also wished to know in what way the provisions of Supreme Decree No. 24423 that, according to the reply to question 19 in the list of issues, had been declared unconstitutional were incompatible with the Convention.

31. Ms. POUSSI KONSIMBO wondered whether the existence of the several National Migration Service support units listed in paragraph 41 of the report might not, rather than being beneficial, complicate procedures and cause delays to migrants' detriment. She asked whether

the units were well coordinated and whether their respective powers were clearly defined. She understood what was meant in paragraph 51 by spontaneous immigration but was unclear as to the difference between planned and selective immigration. The situation regarding foreign detainees would be easier to understand and the information given concerning them more relevant if the numbers cited in paragraphs 97 to 99 could be compared with the size of Bolivia's total prison population.

32. Mr. TAGHIZADE asked what consequences the expected amendments to the Constitution, the situation in Bolivia's western provinces and the disputes between the central authorities and the authorities of those provinces might have in terms of access to land for migrant workers, most of whom were, in the case of internal migration, agricultural workers.

33. The CHAIRPERSON said he was very impressed to see from paragraph 50 of the report that the Bolivian State recognized that immigration represented an important asset. In Europe, the fight to achieve such recognition was not yet over. He would like to know the practical effects of the initiatives and programmes mentioned in paragraphs 52 to 54.

The meeting was suspended at 4.55 p.m. and resumed at 5.20 p.m.

34. Ms. NAVARRO LLANOS (Bolivia) thanked the experts for having put questions that could not but help her country to resolve the problems connected with migration. Regarding the size of her delegation, it should not be forgotten that Bolivia was currently drafting a new constitution that would amend many national rules and have a significant impact on laws and decrees concerning migration and land rights. That naturally required the services of numerous senior government officials, preventing the sending of representatives from the capital. Furthermore, Bolivia had set itself ambitious targets, since it issued invitations to two special rapporteurs and submitted reports to four treaty bodies every year, was a member of the Human Rights Council and planned to host an office of the High Commissioner for Human Rights. Lastly, as a country with limited financial resources, it had to keep its spending in check.

35. The Government would have liked to submit statistics, but it unfortunately lacked the relevant information. Regarding the new constitution, the President had decided that it would be drafted by a 256-member constituent assembly including representatives of vulnerable groups such as indigenous peoples and women. For the first time in the country's history, therefore, the whole population had been taken into account in elaborating the constitution. It remained for the draft to be submitted to a referendum. Article 27 of the new text would give the right to vote both to Bolivians living abroad and to immigrants living in Bolivia.

36. Regarding land, the fact that 90% of the country's agricultural land belonged to 10% of the population had engendered migration. The Government had, as various treaty bodies and rapporteurs had recommended, devised a strategy to reverse the trend. A government delegation comprising the Deputy Minister for Land and the Justice Minister had gone to the Camiri region to free indigenous populations held captive there, but had encountered fierce opposition from landowners. Representatives of the Guarani people had decided to meet to try to resolve the problem.

37. With respect to child labour, seasonal workers, most of whom were adults but some of whom were children, were drawn to border areas for the sugarcane and soya bean harvests.

Their situation was one of semi-slavery, but that concerned only Bolivians and not immigrants. Adult Brazilian and Argentine workers were allowed to participate in the harvests at the seasonal peak.

38. Regarding remittances, Bolivia's financial crisis had led it to introduce a temporary 1% tax on capital flows to prevent speculators from taking advantage of the difficult situation and further weakening the economy. To avoid harming families, however, the measure had been re-examined with respect to amounts of a thousand dollars or less, which roughly corresponded to the sums sent home by migrants.

39. The figure of 200 million dollars quoted for foreign remittances by Bolivian migrant workers was a Central Bank estimate and concerned only amounts passed officially through banks, whereas most Bolivian emigrants sent their families money via relatives or small businesses. The Inter-American Development Bank had, however, made a study of remittances and her delegation would therefore be able to provide more detailed information concerning them at the next meeting.

40. Ms. UREÑA MENACHO (Bolivia) said that while still a baby Bolivia's President had gone with his parents to live in an irregular situation in Argentina. He was therefore closely familiar with, and particularly sensitive to the situation of migrant workers. Bolivia had no shortage of political will to improve that situation but still had to find the means of doing it.

41. Decree No. 24423 had numerous shortcomings, which was why the Government had declared some of its provisions unconstitutional. The Government had set itself the target of drafting a law on migration that would enable it to meet its obligations under the Convention. Unfortunately, members of the previous Government who remained part of the State apparatus were blocking its efforts. For example, although the representatives of the Ministry of Foreign Affairs, the Ministry of Justice and civil society organizations had agreed in the National Migration Board, which was responsible for drafting the law, to use as their model the *Patria Grande* plan developed by MERCOSUR, some people persisted in trying to treat migration as a security issue. The process of change was under way, but completing it would take time.

42. Relations between the Government and NGOs were excellent, as the fact that she, a former member of a civil society organization, was part of the delegation showed. There were, however, organizational problems. The reason why NGOs had submitted a parallel report was that time constraints had prevented their being given the initial report and the written replies, which had largely been drafted by the previous Government, before they were sent to the Committee. In general, civil society organizations were encouraged to write reports for it was felt that they made positive criticisms that helped to improve matters.

43. There were many problems concerning migrant women. Most emigrants from Bolivia were women who went to work in the Argentine textile industry. In one of Bolivia's poorest towns, El Alto, NGOs taught women to use textile machinery. Once they were in Argentina, the women preferred to live in an irregular situation because they were still very distrustful of the consulates and embassies there, which until recently had been affected by corruption. The current Bolivian Government was doing its utmost to repair the situation.

44. Under the "mobile consulate" system, diplomats went by car to neighbourhoods containing large numbers of Bolivian migrants and offered to regularize their situation. The scheme had proved successful in Argentina, resulting in Buenos Aires in particular in the regularization of 6,000 emigrants, which was admittedly a small number by comparison with the 1.5 million Bolivian workers thought to live there illegally.

45. Efforts were being made to remedy the problem of late issuance of official documents to immigrants by the Bolivian authorities. When they filed their requests, applicants were given a certificate stating that they were in a transitional situation. Both the authorities and civil society organizations took care to see that they had all the necessary protection pending receipt of the requested papers.

46. She was not aware that an alternative report had been rejected by the Ministry of the Interior. Such a report might have embarrassed people from the previous government since it apparently denounced corruption in the National Migration Service.

47. While it was true that the initial report did not speak enough about them, numerous efforts were being made to combat human trafficking. The media constantly denounced the many cases of trafficking that occurred and the Government monitored all the trafficking networks. Information on counter-trafficking in Bolivia could be found on the IOM web site.

48. The Ombudsman was doing remarkable work against media stigmatization of Peruvians. For example, television adverts encouraging the public to refrain from all forms of discrimination were broadcast every other hour. Countering discrimination was one of the Government's priorities -- all the more so as Bolivians themselves had suffered discrimination for centuries -- and its efforts in that regard were bearing fruit. Bolivia had always been an open country and had a large foreign population. Peruvian immigrants, therefore, did not encounter any particular problems there. On the contrary, they were sometimes better treated than Bolivians themselves.

49. Responding to the question what Bolivia had got from migration, she said that there had been different types of migration over the years. Following the Second World War, for example, there had been an influx of people from Japan who had become agricultural producers. Bolivia's largest cheese factory now belonged to a Japanese. Later there had been Yugoslavian immigrants, who were now demonstrating their opposition to the Government. It could be seen therefore that those migrants were fully integrated into Bolivian society.

50. No migrants in an irregular situation had ever been taken into detention on the grounds that they were undocumented. It would, however, be prudent to include a provision on the matter in the proposed migration law, as a preventive measure.

51. Regarding the complaints machinery available to migrants, the "fast track" process provided for the amicable settlement of disputes without recourse to the courts. Complaints of breaches of migrants' rights, which were numerous, were submitted to the Ombudsman, who tried to find solutions that satisfied the plaintiffs. If he could not, plaintiffs could go to the courts. The procedure had resolved many disputes. To date, no asylum seeker had had recourse to judicial proceedings.

52. The CHAIRPERSON thanked the delegation for its frank answers to the Committee's questions and the detailed information it had provided.

The meeting rose at 6 p.m.
