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London, 18 August 2006

**OPEN LETTER TO THE PRESIDENT
OF THE REPUBLIC OF BOLIVIA, EVO MORALES AYMA**

Mr. President:

The purpose of this letter is to begin a dialogue with you and your administration and introduce Amnesty International's work and its human rights concerns in Bolivia.

Amnesty International is a worldwide organization working for the observance and respect of all the rights enshrined in the Universal Declaration of Human Rights. It is therefore dedicated to preventing serious abuses of the rights to physical and mental integrity and freedom of conscience and expression as well as discrimination. Amnesty International opposes abuses committed by States as well as those committed by armed political groups. Amnesty International recognizes the indivisibility of all human rights and works to protect and promote both civil and political rights and economic, social and cultural rights.

The work of Amnesty International is based on the international human rights standards set by the international community through the United Nations and other intergovernmental bodies and to which States are committed to respecting. We address governments because of the specific obligation they are under to ensure that State actors operate within the framework of law and respect fundamental human rights.

Amnesty International has learned with interest of the steps taken by your administration to introduce proposals and guidelines that seek to strengthen the human rights of all the inhabitants of Bolivia. In this context the establishment of a National Development Plan shows your government's interest in respecting and strengthening fundamental human rights such as health and education, guaranteeing access to justice for all without discrimination and creating spaces in which the culture of the country's indigenous peoples can develop.

Bolivia has been a party to important international treaties for over 30 years. Amnesty International would like to underline how important your leadership and the existence of political will at every level of the administration are for the promotion, protection and implementation of such treaties. It is worth stressing that human rights comprise an indivisible and interdependent set of both civil and political rights and economic, social and cultural rights which need to be wholly and indivisibly safeguarded.

It is imperative for your administration's policies to incorporate the legitimate demands of those who have been excluded and to foster the participation of all groups within society by guaranteeing the universality and protection of all rights and ensuring that those rights are backed up by equality of access and protection under the law. All aspects of development in Bolivia over the next few years should be viewed in the light of the commitment it has made to the human rights enshrined in the Universal Declaration of Human Rights and other international instruments, thereby helping to strengthen a culture of respect for human rights.

The recommendations of the *Vienna Declaration and Programme of Action* adopted by the World Conference on Human Rights in June 1993 included the importance of each state creating a National Action Plan to identify the steps that need to be taken to improve human rights promotion and protection. Such a plan should include guidelines for preventing the use of excessive force on the part of law enforcement officials, particularly in the context of public demonstrations, and the torture and ill-treatment of detainees by members of the security forces, and for ensuring that prison conditions comply with international standards so that they do not constitute cruel, inhuman or degrading treatment.

Specific effective action should also be taken to protect those groups which are most at risk, such as women and children. Proper effective implementation of the *UN Convention on the Elimination of All Forms of Discrimination against Women* should include the protection of women who are experiencing violence, especially at the hands of a relative or partner, whatever their gender. The government should also establish mechanisms to protect the rights of minors and adolescents.

Amnesty International welcomed Bolivia's ratification of the *Rome Statute of the International Criminal Court* in 2002, which showed that the authorities are prepared to cooperate with the international system of human rights protection. The entire legal system established in the Rome Treaty is based on the principle of complementarity enshrined within it. In other words, whenever any of the crimes under international law listed in the Statute (genocide, crimes against humanity and war crimes) occur, it is the duty of the State party concerned to exercise its own national jurisdiction, and only if a State cannot properly exercise, or does not wish to exercise, such jurisdiction may the International Criminal Court replace it.

Consequently national jurisdictions must possess the necessary regulatory framework to enable them to comply with this duty. Amnesty International is concerned to note that there are significant gaps in Bolivian legislation that may prevent the country's judiciary from properly exercising its jurisdiction over such crimes and its administrative authorities from cooperating effectively with the Court when requested to do so. Amnesty International is therefore pleased to note the draft bill on implementation of the Rome Statute drawn up at the request of the Ombudsman's Office, several aspects of which the organization views as positive. We believe that this initiative should be debated in Congress (the Chamber of Deputies) without delay.

The organization also remains somewhat concerned about the bilateral agreement signed some time ago between Bolivia and the United States of America which gives complete immunity to US nationals and other people accused of crimes that fall under the jurisdiction of the International Criminal Court. As you know, that agreement has already been approved by the Senate. Amnesty International wishes to

remind you that the agreement breaches Bolivia's obligations under international law, including those it has contracted as a State party to the Rome Statute. By rejecting the bilateral agreement, Bolivia would be making a positive contribution towards developing respect for the integrity of the Rome Statute as well as of international law which should be paramount in relationships between sovereign nations.

Bearing in mind the indivisible nature of human rights, the organization believes that, within your government programme, you should take the necessary steps to draw up a National Action Plan to foster and improve human rights promotion and protection. Such a plan should contain meaningful and practical working guidelines that are clearly geared towards achieving goals and objectives, together with an agreed timetable for carrying out the initiatives envisaged in the Plan. Having a plan of this kind, in which civil society is fully involved, would denote a broad-ranging effort to bring together a series of initiatives and guidelines, including regulatory and operational measures to be implemented at all three levels of government (executive, legislature and judiciary), including the administrative sphere.

As a minimum, such a National Action Plan should:

- * Promote economic, social and cultural rights such as the rights to health, education, housing and work.
- * Recognize the principle that all inhabitants of Bolivia are equal under the law by taking specific measures to counter discrimination.
- * Advocate prompt, independent and impartial investigations by the ordinary courts of any reports of the violation of fundamental human rights, including torture and ill-treatment and extrajudicial executions.
- * Provide the courts of justice with all the resources they need to carry out their work and make clear that in Bolivia everyone is equal before the law and that obligations under international law cannot be relinquished.
- * Protect and publicly promote the work of human rights defenders, including giving public support to the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, known as the *Declaration on Human Rights Defenders*, which was adopted on 9 December 1998.
- * Support the resolution on *Human Rights Defenders in the Americas*, adopted in June 1999 by the General Assembly of the Organization of American States.
- * Reaffirm the government's commitment to taking effective action to eradicate torture and ill-treatment by ensuring that reports of this type of human rights violation are thoroughly and independently investigated and that those responsible are brought to justice in the ordinary courts.
- * Adopt measures to consolidate abolition of the death penalty in Bolivia by ratifying during the next presidential period the *Second Optional Protocol to the International Covenant on Civil and Political Rights*.
- * Take the steps required for the Bolivian State to make the declaration envisaged under Article 22 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* recognizing the competence of the Committee against Torture to receive and consider communications sent by people under its jurisdiction or on their behalf.

* Work for ratification of the *Inter-American Convention to Prevent and Punish Torture* of the Organization of American States.

* Take whatever measures are necessary to provide all members of the security forces with appropriate training on national and international human rights legislation and the means available for protecting such rights, including United Nations Codes and Principles.

* Ensure compliance with the commitments contracted by Bolivia under the United Nations *Convention on the Elimination of All Forms of Discrimination against Women*.

* Ensure compliance with the United Nations *Convention on the Rights of the Child*.

* Ensure compliance with the United Nations *Convention relating to the Status of Refugees*, adopted on 28 July 1951, and the 1967 *Protocol relating to the Status of Refugees*.

* Ensure compliance with the *Indigenous and Tribal Peoples Convention (Convention 169)* of the International Labour Organization which protects the rights of indigenous peoples.

* Take the necessary steps to ensure that the jurisdiction of military courts is limited to the maintenance of discipline within the armed forces and therefore confines itself to dealing with strictly military offences.

* Encourage Congress, in consultation with civil society, to debate and consider the draft bill on implementation of the *Rome Statute* as soon as possible.

* Throw out once and for all the bilateral agreement on impunity with the United States of America.

Amnesty International wishes to thank you in advance for your attention and for any steps you may take to encourage and implement the initiatives referred to in this letter. The organization also trusts that it will be able to maintain a free-flowing dialogue with your government in order to bring about full respect for human rights in Bolivia.

Yours sincerely,

For: Irene Khan