



Amnesty International's Comments on the National Report presented by Bolivia for UPR

Amnesty International looks forward to the Universal Periodic Review of Bolivia, during the 7th session of the UPR Working Group in February 2010, as an important opportunity to further the promotion and protection of human rights in the country. As described in Amnesty International's submission for the UPR of Bolivia, there are a number of key human rights challenges that must be effectively addressed to ensure concrete improvements to the situation of human rights at the national and local levels. These include the challenge of dealing with problems arising from past impunity and its lasting effects, as well as incorporating strong human rights safeguards in reformed institutions and legislation, with specific reference to the justice system.

Amnesty International welcomes the seriousness with which the Plurinational State of Bolivia has entered into the Universal Periodic Review process, and takes this opportunity to present comments and recommendations arising from the Bolivian National Report, with a view to supporting the government towards improving the human rights situation in Bolivia. Amnesty International takes note of the participatory nature of Bolivia's preparation for its review to date, and hopes that this can be continued throughout the UPR process so as to ensure the long-lasting positive effects of its outcome.

Amnesty International recognises that Bolivia is undergoing a significant change process, motivated by principles of social justice and equality for the country's plural heritage and enshrined in a new constitution that sets out to reverse a history based on racial discrimination and cultural domination. The organisation is aware that such a process requires profound reforms to domestic institutions and legislation, and urges that this process guarantee full respect for human rights standards. The organisation reminds the government of Bolivia of the importance of open discussion and debate, including with civil society, around the scope and content of concrete proposals for reform at all levels of Bolivian society and in international forums such as the Human Rights Council.

Amnesty International hopes that the Bolivian government will demonstrate its unequivocal dedication to furthering improvements in its respect for human rights by adopting key recommendations made to it by other states and by making concrete commitments to strengthen the protection of human rights during the UPR. With a view to contributing to the successful outcome of the review process and based on the issues raised in its submission to the UPR, Amnesty International offers the following comments on the report submitted by the Bolivian State, paying particular attention to the need to strengthen the justice system, an issue it considers fundamental to the human rights situation in Bolivia.

Institution-building and the human rights framework

The State report sets out some of the new institutional structures that will be implemented progressively in Bolivia in accordance with the country's new Constitution and the values enshrined within it. Amnesty International takes note of the commitment to ensuring that the four branches of the state are able to operate within a framework of independence, separation of powers, coordination and cooperation.

In this respect, Amnesty International reiterates its concern that the principle of separation of powers be rigorously respected, with regards the Judiciary, the Executive and the Legislative, and that while maintaining due independence, proposals for future reforms to be implemented across the State should be discussed in a coordinated manner. Creating a solid basis for cooperation, based on full respect for the complementary functions and powers of different institutions, is essential to the success and sustainability of reforms.

Amnesty International encourages Bolivia to elaborate on its assurance that the process of pre-selection and election of judicial authorities will constitute a guarantee of their future independence (para35) during the working group session.

Amnesty International acknowledges Bolivia's underscoring of its commitment to interpret its Constitution in conformity with human rights instruments ratified by Bolivia. The organisation expresses its hope that Bolivia will continue to implement without delay its National Human Rights Plan, approved in 2008, including commitments to implement the Rome Statute. It also welcomes Bolivia's promise to deliver overdue reports to the United Nations treaty bodies (para26), and calls on the government to ensure prompt submission of reports to be submitted under the International Covenant on Civil and Political Rights, the Convention Against Torture, and the Convention on the Elimination of All Forms of Racial Discrimination.

Justice

In its report, Bolivia cites inherited problems in the justice system that lead to delays in reaching justice, and generate serious obstacles in tackling impunity. It sets out some measures it has taken to address such obstacles by using alternative conflict-resolution and providing protection to witnesses and victims. Amnesty International welcomes initiatives taken to date, and urges Bolivia to find a way to address the culture of impunity from the past while respecting international human rights standards to ensure that reforms bring stability to the justice sector in the future.

Specifically, in its submission to the UPR, Amnesty International has highlighted the need for future justice sector reforms to be used as a way of finding lasting solutions to the long-standing problems around independence of the judiciary and to bring an end to impunity. Significant concerns around possible political interference in the judiciary have been raised by a number of organisations and international bodies under the current government's previous term in office, as they have been with past administrations.

The organization presents specific concerns regarding the need to reach justice in case of the Pando violence in September 2008, which must be considered in addition to the important humanitarian gestures made by the State to the victims to date. It takes this opportunity to urge the need for politically impartial investigations and the application of fair trial standards throughout the process of bringing the case to justice. The organisation has urged that the judicial proceedings initiated take into consideration all of the violent acts committed, as well

as any omission by authorities in carrying out duties in this regard. A series of related events, such as the detention and alleged ill-treatment of 15 campesinos, and the allegations of excessive use of force employed in the detention and transfer of individuals allied to the prefecture and civic committee that are under investigation and/or charged, must also be investigated in order to bring to justice those responsible for *all* violations of human rights.

Amnesty International also proposes other measures it considers essential to strengthening the framework for justice in Bolivia more generally; among these, the need to ensure that the proposed law that will set boundaries between “ordinary” and “indigenous, campesino and aboriginal” jurisdictions is the subject of inclusive and effective debate to ensure that human rights standards are maintained in both jurisdictions.

Amnesty International would like to underscore the importance of recommendations made to Bolivia by the Inter-American Commission on Human Rights of the Organization of American States in a recent update to its report on access to justice, including those on complying with standards of independence and impartiality for the appointment of judges and prosecutors, and implementing mechanisms of internal and external control for judicial authorities. The recommendations made by the Commission demonstrate the need for a concerted effort between sectors to strengthen a historically debilitated judiciary at all levels.¹

Amnesty International is concerned to read in the report of the Bolivian Ombuds Office submitted to the UPR working group that the body has not been invited to advise on the human rights aspects to overhauling the criminal justice system, despite a constitutional mandate requiring it to do so. We urge the Bolivian government to promote actively the input of key actors within Bolivia and outside, to ensure that the reforms introduced have credibility and the confidence of Bolivian society to bring required standards to the operations of the judicial system.

Given the current state of the judiciary, with no judges sitting in the Constitutional Court and no quorum in the Supreme Court, Amnesty International urges the government to use the opportunity of the UPR to explain how it plans to ensure the functions of oversight and decision-making necessary to resolve cases currently passing through the system while it is introducing these ambitious reforms. It urges Bolivia to commit during the UPR to ensuring that all reforms pay due respect to the principles enshrined in the UN Basic Principles of the Independence of the Judiciary.

In addition, Amnesty International requests the Bolivian government to provide a clear answer during the UPR on how it will put into practice a commitment to making available archives dating to the period of military and authoritarian rule that shed light on human rights abuses committed at the time.

Amnesty International believes that efforts made by the current government in its first term in office towards strengthening social programmes and through these the enjoyment of economic, social and cultural rights, demonstrate its commitment to addressing the needs of the most vulnerable members of the Bolivian population. The organisation urges the State to commit during the UPR to taking careful steps towards strengthening the justice system, in such a way

¹ Inter-American Commission on Human Rights, *Follow-up report – Access to justice and social inclusion: The road towards strengthening democracy in Bolivia*. August 2009, OEA/Ser/L/V/II.135

as to ensure lasting solutions to serious historical problems of impunity and lack of independence of the judiciary.

Amnesty International hopes that Bolivia will use the opportunity of the UPR to provide an example to other states of its commitment to respect human rights standards at all stages of an ambitious process of constitutional reform and subsequent institution-building. The organisation believes that the UPR is a key opportunity for Bolivia to demonstrate its willingness to discuss openly its planned reforms, continuing in this way the dialogue it promotes through the direct participation of social movements and activists in these reforms.

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