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OPEN LETTER FROM AMNESTY INTERNATIONAL TO THE CANDIDATES TO THE PRESIDENCY OF BOLIVIA

On the occasion of the elections to be held on 18 December, Amnesty International is addressing this open letter to the candidates to the presidency of Bolivia in order to present its concerns regarding the situation of human rights in the country. The organization is also using this opportunity to urge the candidates to consider taking effective steps to promote and protect those rights.

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 which States commit themselves 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.

One of the candidates will be elected to rule over the destiny of the country for the next five years and it is in this context that the organization wishes to point out that all human rights should be considered and respected by the new administration set up by the new President. Despite the fact that the Bolivian State has been a party to important international treaties for over 30 years, Amnesty International wishes to stress that signature and ratification of those treaties must be accompanied by the political will to promote, defend and implement measures that make protection of the fundamental rights contained in such treaties, including the right to life and the right to justice for all the inhabitants of Bolivia, a reality, thereby complying with the Bolivian State's national and international commitments.

It is with concern that Amnesty International has observed the political crisis that has dominated the country in recent years and unleashed violence resulting in loss of life. The organization urges the candidates to ensure that any process undertaken to resolve the crisis that is still affecting the country is guided by the principle of the indivisibility of human rights, in other words, that it should be

recognized that the crisis has its roots in the violation of the economic, social and cultural rights of marginalized groups within the population.

It is vital for the candidate elected to the presidency to give proper consideration and take the necessary measures to develop new policies that incorporate the legitimate demands of those who have been excluded from the protection that the democratic process should offer. The new president should encourage all groups within society to contribute in order to safeguard the universality and protection of all rights and ensure that equal access to and protection of such rights is provided in law. Amnesty International reiterates the need to adopt effective policies that will extend human rights protection and promotion in the country. Some of those measures will require administrative directives and others the introduction of new legislation but many will solely require what is already contained in Bolivian legislation to be implemented. All will require political will at every level.

Amnesty International would like to inform the candidates of the human rights concerns it has documented and which have not yet been resolved. They include reports of deaths which, given their characteristics, appear to have been caused by excessive use of force on the part of law enforcement officials, particularly within the context of public demonstrations, the torture and ill-treatment of detainees by members of the security forces and prison conditions amounting to cruel, inhuman or degrading treatment. Amnesty International would also like to stress its concern at the failure of the authorities to carry out thorough, independent and conclusive investigations into such reports as well as at the fact that military courts have jurisdiction over cases of military personnel accused of violating human rights. The organization has also become increasingly concerned about threats and attacks targeted at human rights defenders.

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 creating national plans of action to identify the steps States need to take to improve human rights promotion and protection. Amnesty International believes that it is important for such a national plan of action to be implemented during the next presidential period.

The candidate elected as President of Bolivia should take specific steps to protect and promote the rights of all the inhabitants of Bolivia, including those who suffer from discrimination because of their sexual orientation or gender identity. He should also ensure compliance with the conventions relating to the rights of women, children and indigenous groups. By doing so, the government will be indicating that it has the will to respect the human rights of everyone, including indigenous ethnic groups, peasants, women and other groups within the population who have been considerably marginalized from the political and economic life of the country and who are legitimately demanding participation in it.

Bolivia is a State party to the *International Covenant on Economic, Social and Cultural Rights*. Amnesty International would like to stress the importance of the international commitment made under it to any policies the future president introduces and promotes to protect the rights recognized in the Covenant, including, among others, the rights to work, an adequate standard of living, health and education. The candidate who becomes president should ensure that future economic policies take such rights into consideration and that any necessary measures established in the Covenant are introduced. Recognizing these rights means recognizing the indivisibility of all human rights.

Amnesty International very much welcomed the fact that Bolivia ratified the *Rome Statute of the International Criminal Court* in 2002, thus demonstrating the willingness of the authorities to collaborate 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. That is to say that, 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 want to exercise, such jurisdiction may the International Criminal Court replace it.

National jurisdictions must therefore possess all the normative elements that will allow them to comply with such a duty. Amnesty International is concerned 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. In this connection, Amnesty International welcomes the draft bill on implementation of the Rome Statute drawn up by the Ombudsman's Office, several aspects of which the organization sees as positive. We believe that, following widespread consultation with civil society, this proposal should be put to Congress.

The organization continues to be extremely concerned about the bilateral agreement signed between Bolivia and the United States of America which gives complete immunity to nationals of the latter country and other people accused of crimes which fall under the jurisdiction of the International Criminal Court. The agreement has already been approved by the Senate and is awaiting consideration by members of the House of Deputies. Amnesty International urges whoever is elected president to push for rejection of such approval on the grounds that the agreement violates Bolivia's obligations under international law, including its obligations as a State party to the Rome Statute. By refusing to approve the agreement, Bolivia will be making a decisive contribution towards respecting the integrity of the Statute and international law which should be paramount in relationships between sovereign nations.

Amnesty International is calling on the candidates, and in particular the candidate who is elected President of Bolivia, to ensure that, during the next presidential period and when developing future policy for the country, the indivisibility of human rights is taken into account and that the necessary steps are taken to ensure their respect and observance. To this end the new president should include the following in his government programme:

- * Draw up a National Plan of Action to foster and improve human rights promotion and protection.
- * Promote economic, social and cultural rights such as the rights to health, education and work.
- * Recognize the principle that all inhabitants of Bolivia are equal under the law by taking specific measures to counter discrimination.
- * Promote prompt, independent and impartial investigations by the ordinary courts of any reports of the violation of fundamental human rights, including the deaths that took place in February and October 2003.
- * Protect and publicly promote the work of human rights defenders, including publicly supporting 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 and ensuring that reports of this 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 legislation on human rights and the means available for protecting them, 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 *Indigenous and Tribal Peoples Convention (Convention 169)* of the International Labour Organization which protects the rights of indigenous peoples.
- * Work effectively for the adoption of the *Draft United Nations Declaration on the Rights of Indigenous Peoples* which has been under discussion since 1985.
- * Take the necessary steps to ensure that the jurisdiction of military courts is limited to maintaining discipline within the armed forces and therefore confines itself to dealing with strictly military offences.
- * Ensure that the draft bill on implementation of the *Rome Statute* is subjected to widespread consultation within civil society and, at the appropriate time, submit it to Congress for its consideration.
- * Urge rejection of the bilateral agreement on impunity with the United States of America which contravenes Bolivia's international treaty obligations.

Amnesty International hopes that all initiatives that are conducive to respect for human rights will be adopted and promoted by the next President of Bolivia, thereby opening the door to the future promotion and protection of those rights. At this critical juncture for the country, the organization urges all the candidates to promote political as well as economic and social measures that protect the defence of human rights and respect for the rule of law.

Yours sincerely,

Susan Lee
Director
Americas Regional Programme