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Chairperson: Sir Nigel Rodley

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

Consideration of reports submitted by States parties under article 40 of the Covenant

Third periodic report of the Plurinational State of Bolivia (CCPR/C/BOL/3; CCPR/C/BOL/Q/3 and Add.1; HRI/CORE/1/Add.54/Rev.2)

1. *At the invitation of the Chairperson, the delegation of the Plurinational State of Bolivia took places at the Committee table.*

2. **Ms. Ayllon Quinteros** (Plurinational State of Bolivia) said that, in 2009, having become the first country in South America to elect an indigenous president and having instated indigenous campesino authorities, the Plurinational State of Bolivia had adopted a new Constitution enshrining its plurinational character and establishing equal rights for all Bolivians. With regard to the protection of human rights, the Constitution guaranteed a new and more extensive set of fundamental rights based on those set out in the main universal and regional instruments. It also stated that, should the rights granted by the international instruments to which the Plurinational State of Bolivia was a party be more favourable than those set out in the Constitution, the former would take precedence. Constitutional rights were to be interpreted in accordance with international instruments when the provisions of the latter were more favourable. Since the previous report, the Plurinational State of Bolivia had ratified numerous international human rights instruments, including the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. It had also adopted several human rights laws and a national plan of action to promote such rights for 2009–2013, which took account of the country's plurinational and intercultural character and was intended to serve as a general framework for the development of public policies to guarantee respect for and the promotion, protection, realization and exercise of human rights. To address the socioeconomic disparities and high rates of poverty and illiteracy highlighted by the Committee in its concluding observations in 1997, the Government had amended its economic policies so as to provide a decent living for all Bolivians. It had also managed, by nationalizing natural resources, to lift 10 per cent of the population out of poverty and considerably reduce poverty in rural areas in the space of seven years. Thanks to 6.5 per cent economic growth, the country could currently invest in important social protection and community development measures to eradicate illiteracy, achieve further progress in the areas of health and education, and empower traditionally vulnerable groups, particularly indigenous persons and women.

3. Summarizing the State party's written replies to the list of issues drawn up by the Committee, she said that the Act on the Elimination of Racism and All Forms of Discrimination of 2010 established mechanisms to prevent and combat racist acts and discriminatory practices. In the report prepared after his visit to the country in 2012, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had noted significant progress and acknowledged the authorities' efforts to put an end to the racist and discriminatory behaviour that lingered among Bolivian society. Programmes for cultural decolonization and a greater appreciation of ancestral knowledge were being implemented to help eliminate racist and discriminatory practices. A new migration law enshrined the principle of non-discrimination and guaranteed all Bolivians and foreigners, without distinction the enjoyment and exercise of all constitutional rights. Equal treatment of men and women was one of the pillars of the new Constitution, and the importance assigned it was illustrated by the presence of women in every sector of public life, and by the gender parity within the ministerial cabinet. The 2009 national elections witnessed a significant and historic increase in the political participation of women and in the number of women elected as senators and members of parliament. Moreover, the new law aimed at guaranteeing women's right to a life free of

violence, adopted in March 2013, provided for comprehensive measures and policies for prevention, monitoring, protection and redress and their attendant mechanisms, as well as stipulating punishments incurred by aggressors. Under that law, the Ministry of Justice and the autonomous territorial entities would act within their areas of competence to eliminate all forms of violence against women and establish a new social framework to ensure that women were respected and enjoyed a life with dignity and without violence. That would be achieved through prevention measures; training and awareness-raising for staff working with female victims of violence; counselling, information and protection for victims; communication activities to combat gender stereotypes; and the monitoring and rehabilitation of aggressors.

4. With regard to the right to life and the prohibition of torture, the Plurinational State of Bolivia had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and allowed the relevant international bodies to make regular visits to the country's detention facilities. In 2010, members of the Subcommittee on Prevention of Torture had visited several Bolivian prisons. The Bolivian office of the High Commissioner for Human Rights had welcomed Decision No. 2540/2012 of the Plurinational Constitutional Court, which, in compliance with national and international jurisprudence, had excluded cases of human rights violations from the competence of military jurisdictions, thereby helping to guarantee victims' access to an independent tribunal and to consolidate the independence of the judiciary. Moreover, in accordance with Act No. 2640 of 11 March 2004, on special compensation for victims of political violence during periods of unconstitutional government, 488 people had been awarded financial compensation. With regard to persons deprived of their liberty, a preliminary bill provided for a system to guarantee the respect, protection and exercise of their fundamental rights. The Directorate-General of Prisons was implementing measures to improve prison infrastructure and reduce overcrowding by installing new facilities throughout the country. The authorities were also working on delays in the delivery of justice, the main cause of overcrowding. With regard to procedural guarantees, the Constitution and national laws prohibited the imposition of sanctions not issued by a competent authority; it should also be noted that the indigenous campesino jurisdictions did not consider lynching to be a form of punishment. Since the election of new magistrates in 2012, the Plurinational Constitutional Court had heard numerous cases, the Code of Constitutional Procedure had been adopted, a plurinational institute for constitutional studies had been established, and other steps had been taken to ensure that constitutional justice functioned smoothly. Thanks to significant jurisprudential measures, the Constitutional Court had guaranteed the principles of access to justice and equality of arms. Indeed, it had declared the offence of contempt to be unconstitutional, finding that a penal regime implemented to the exclusive benefit of public officials amounted to a restriction of the right to freedom of information. Lastly, steps were being taken to develop legal aid (National Public Defence Service) so as better to ensure access to justice for the most disadvantaged.

5. With regard to the elimination of forced labour, servitude, and similar forms of exploitation in the workplace, following the expiry in 2009 of the transitional interministerial plan for the Guaraní people the Ministry of Labour had launched an institutional capacity-building programme to support efforts to eliminate forced labour and give effect to workers' social rights, especially the rights of indigenous workers from the Chaco and Amazon regions and of vulnerable seasonal agricultural workers. The programme comprised measures — inspections, reconciliation hearings and information campaigns on workers' social rights — that would contribute to the gradual elimination of servitude, forced labour and similar forms of exploitation of vulnerable groups by ensuring a State presence in the form of labour inspectors and by establishing strategic alliances with social stakeholders. As for equality of arms and judicial pluralism, the 2010 Jurisdiction

Demarcation Act guaranteed indigenous campesino nations and peoples the right to administer justice in accordance with their own standards and procedures. Numerous training seminars and workshops had been held in 2011 and 2012 on the Jurisdiction Demarcation Act, indigenous campesino justice systems and the rights of indigenous campesino peoples.

6. Significant progress had been made in the area of child protection. The Code on Children and Adolescents stipulated that every child had the right to live in dignity and to be protected everywhere from violence and inhumane treatment. The competent authorities must be informed of any cases of suspected child abuse; emergency measures were taken to protect child victims; and cases had to be brought before the juvenile court within 48 hours. The year 2012 had been declared the “Year of Non-Violence against Children and Adolescents”, with the primary objective of combating all forms of violence against children of both sexes. The resources needed to achieve that objective had been allocated to all relevant authorities. Various laws had also been adopted, including laws that excluded cases of violence against children from the jurisdiction of indigenous campesino courts and facilitated the identification of perpetrators of such violence (through free DNA testing). A new draft Code on Children and Adolescents had been submitted to the Plurinational Legislative Assembly for consideration in 2013, and 12 April had been declared “National Children’s Day”. Lastly, the National Plan for the Progressive Eradication of Child Labour had been adopted in 2001, and the Ministry of Labour had been made responsible for implementing it.

7. **Mr. Salvioli**, noting the State party’s indication that the provisions of the Covenant were not applied directly by the courts but rather invoked for purposes of interpretation, requested further information about national implementation of the Covenant. Given that the Plurinational State of Bolivia had ratified the Optional Protocol to the International Covenant on Civil and Political Rights in 1982, he was surprised that so few individual communications had been submitted, and wondered whether the general public had been made sufficiently aware of the procedure. He also wished to know whether the State party was taking measures to prevent lynchings of alleged offenders and to ensure that such acts did not go unpunished.

8. He wished to know how many victims of human rights violations committed under unconstitutional governments had received compensation and what budget it had been allocated by the State party. He emphasized the fact that no rehabilitation measures were provided for those persons or their family members and that the burden of proof lay with the victims, who had to state the exact dates when the torture or other ill-treatment had been inflicted. What was being done to expedite the proceedings, which were very lengthy? Lastly, he wished to know the current status of the investigations into and prosecutions of the racist acts committed in Sucre in May 2008 and the violent acts committed in Porvenir in September 2008, and whether the victims had been awarded any reparation.

9. **Mr. Vardzelashvili** asked why no law governing states of emergency had been adopted and whether there were currently any legislative provisions authorizing the Government to restrict the rights guaranteed under the Covenant or the Constitution. The delegation could perhaps comment on articles 1 and 37 of the Constitution with regard to the declaration of a state of emergency. The State party remained a source country for trafficking in persons, and in recent years the problem had become quite alarming. He would like to know more about the National Plan to Combat Human Smuggling and Trafficking in Persons, particularly about the implementation timetable and the difficulties encountered. He would also like an explanation of the marked disparity between the number of investigations of trafficking cases and that of prosecutions and convictions. He would also be interested in statistics on complaints filed, investigations opened and convictions handed down in trafficking-related cases before and after the adoption of the

comprehensive law to combat human trafficking and smuggling in persons. He would also be interested to learn why some traffickers had received suspended sentences. Lastly, what specific measures were taken to protect victims during and after the investigations? Did they receive legal aid and psychological support?

10. **Mr. Neuman** asked what measures had been taken for effective implementation of the anti-discrimination Act, which included discrimination on grounds of gender, sexual orientation and gender identity. He also wished to know what awareness-raising measures had been taken to change the attitudes and behaviour of the general public and State officials. He would like to have statistics on the representation of indigenous women in politics and on women's access to positions of responsibility in the private sector. Lastly, he would like to know how many inquiries had been instituted into domestic violence and violence against women, what punishments had been meted out in each case, and whether there was any action to increase the number of shelters for female victims of violence.

11. **Ms. Waterval** recalled that women who became pregnant by rape had a legal right to abortion but had first to file a complaint and secure judicial authorization, thus hampering the exercise of that right. She therefore wished to know how many such complaints had been filed and how many abortions had been authorized. She also wished to know what was being done to prevent unwanted pregnancies, particularly among adolescents who engaged in risky sexual behaviour, given that, according to some reports, those responsible for informing young people about reproductive health only did so reluctantly because of their religious beliefs. Also, did the State party plan to decriminalize abortion? And where did the bill on sexuality and reproductive rights stand?

12. She further wished to know if there was a law prohibiting corporal punishment in all places. On the subject of forced labour, she requested detailed information on eradication programmes and on the results of any evaluations of their effectiveness. Lastly, she would like to know how many employers had been prosecuted for violating labour laws, notably in the Chaco region and regarding members of the Guaraní nation, and the outcome of any such cases.

13. **Mr. Rodríguez-Rescia** asked what measures were under way to prevent torture and ill-treatment. The Committee against Torture, in its May 2013 concluding observations on the situation in the Plurinational State of Bolivia, had stressed the need to adopt a definition of the offence of torture in conformity with the provisions of the Convention against Torture, with particular mention of the intentionality and purpose of the conduct as aggravating circumstances. Did the State party intend to include acts of intimidation or coercion, especially those aimed at extracting confessions, in its definition of torture?

14. It was stated in the State party's written replies that the investigation into the death of David Olorio Apaza had still not been completed because the investigators had been dismissed at the behest of the Chief of Police. The delegation was invited to explain why the investigators had been dismissed and whether there were plans to replace them and, more generally, to tackle the institutional impediments to investigations. In the case of the death of Sub-Lieutenant Grover Poma Guanto, the Plurinational Constitutional Court had concluded that cases of human rights violations, including torture, fell outside the jurisdiction of the military courts, which was a welcome development. It would, however, be interesting to know what steps had been taken to follow up on that decision, especially in legislative terms. Several cases of violence against transgender persons had been brought to the Committee's attention, including the cases of Mayra Claro and Luisa Durán, who had both died after brutal torture. The delegation might provide more information on those two cases and report on measures to protect transgender persons, who were at particular risk of violence. There seemed to be two bills on the prospective national mechanism for the prevention of torture: one assigning that role to the Ombudsman and another establishing an entirely new mechanism with broader powers than the Ombudsman's. He wished to know

which of the two bills was currently being examined by the Legislative Assembly and, if it was the first of the two, whether it would grant the Ombudsman the autonomy and resources needed to function effectively.

15. **The Chairperson** suggested briefly suspending the meeting to give the Bolivian delegation time to prepare its replies to Committee members' questions.

The meeting was suspended at 4.50 p.m. and resumed at 5.15 p.m.

16. **Ms. Quinteros** (Plurinational State of Bolivia) said that the delegation did not have the necessary information to answer all the Committee's questions immediately, but would complete its replies at the next meeting. The Plurinational State was still under construction; the new Constitution had come into effect only in 2009, and the battery of laws and statutes introduced to ensure its implementation and to establish the necessary institutional framework had, too, only recently been passed. The Trafficking and Smuggling of Persons Act, for example, had been passed just over a year earlier. It was difficult, after such a short time, to measure progress and to provide detailed statistics. Huge efforts were being made to mobilize all levels of government (central, departmental, municipal and indigenous community levels) to combat trafficking in persons. The judiciary, whose structure was still being consolidated, would be fully operational by 2014 and would thus be able to contribute to enforcement of the Act. The Ministry of Justice had endeavoured to ensure free assistance to victims of trafficking, and a psychological counselling centre was being set up. The Government was aware that the road to the elimination of trafficking would be long and hard, but it had entered the fray with determination and would do its utmost to achieve that goal.

17. The criteria for compensation to victims of human rights violations committed under the de facto regimes had been determined in consultation with victims' associations, the Ombudsman and various international agencies. The law provided that 20 per cent of the compensation packages must be covered by the State, and the remaining 80 per cent by donations from international or non-governmental organizations. The State had fulfilled its part of the arrangement, but its approaches to donors had not as yet borne fruit. The Committee would be informed in due course of the exact number of persons receiving compensation. Details about the bill on the national mechanism for the prevention of torture would also be provided later, but it should be noted that the bill was likely to be extensively modified after its examination by the Legislative Assembly. The Plurinational Constitutional Court was currently examining a complaint that the article of the Criminal Code that defining situations in which abortions could be authorized was unconstitutional, on the ground that the exceptions it established were overly restrictive. The Court's ruling, expected to be delivered in 2014, would determine the Government's stance in that regard.

18. **Mr. Salvioli** said that the Government was obliged to ensure that victims of human rights violations received reparation and that it was therefore up to the Government to find the means to cover the part of the compensation packages it had not managed to obtain from donors. The Government was also obliged to award victims other forms of reparation. It would be useful to know what measures had been taken in that regard and whether they took the victim's specific situation into account, especially that of indigenous women. The delegation was also invited to respond to the questions on lynchings and the excessive use of force by the police and, specifically, to provide information on the inquiries into such incidents, the sentences meted out to the perpetrators, and the reparation to the victims.

19. **Mr. Rodríguez-Rescia**, drawing attention to the large discrepancy between the number of complaints of torture received by the Ombudsman and the number of inquiries and convicted perpetrators, asked if the Ministry of Justice planned to implement the Istanbul Protocol to improve the handling of torture cases.

20. **Mr. Neuman** asked for more specific information on the decentralization process whereby certain State powers relating to implementation of the Covenant, such as the fight against domestic violence and trafficking in persons, were being devolved to local autonomous — including indigenous — authorities. He wished to know what arrangements the central Government had made to guarantee indigenous authorities' exercise of their powers in a manner in keeping with the Covenant.

21. **Mr. Shany** requested more information on the decision pending before the Plurinational Constitutional Court. Was it required to rule on the prohibition of abortion or only on the scope of the exceptions to that prohibition? An estimated 67,000 abortions — mostly illegal — were practised in the State party each year; very few were authorized by the courts (fewer than 10 in 2012); and the number of women facing criminal prosecution for having an abortion was high (with proceedings instituted in over 700 cases in 2012). It would be interesting to know how those proceedings were being handled while the Court's decision was still pending.

22. **Mr. Vardzelashvili** asked how the delegation explained the gap between the scale of trafficking in persons in the country, and the few convictions for human trafficking offences. He wished to know what special measures were taken to protect victims who helped the authorities with their investigations.

23. **The Chairperson** suggested moving on to consideration of the matters raised in paragraphs 14 to 26 in the list of issues.

24. **Mr. Rodríguez-Rescia**, referring to the issue raised in question No. 14, said that two aspects of the State party's prison system posed serious dangers: the extremely high overcrowding rate, reported by prisons to be between 200 per cent and 233 per cent, and the fact that between 80 per cent and 85 per cent of inmates were in pretrial detention. Was the State party considering any other measures, aside from building new prisons, to reduce prison overcrowding and, in particular, to avoid systematic remand in custody pending trial? He also wished to know why so many detainees (35 per cent) remained in prison after having served their sentences. The tragic events that had occurred in the Palmasola prison, in which over 30 prisoners had died in a fire started by other inmates, revealed serious operational shortcomings in the prison administration. Corruption in prisons was systemic and increased the level of insecurity since groups of inmates were being allowed to take over control of the prisons. The delegation could perhaps comment on that situation and indicate what measures were being taken to address it.

25. **The Chairperson** thanked the Bolivian delegation and the members of the Committee and invited them to continue the dialogue at their next meeting.

The meeting rose at 6 p.m.