

Bolivia

Bolivian courts made some progress in clarifying responsibilities for human rights abuses in 2011, including convicting seven high-ranking military officers and politicians for deaths in the 2003 street protests. However, lack of accountability remains a serious problem. The fate of scores who "disappeared" before democracy was re-established in 1982 has still not been clarified, and trials of those responsible for killings during marches and demonstrations in recent years have been subject to long delays. The insistence of military courts on trying military accused of abuses continues to be an obstacle.

Laws passed in 2010 and 2011 posed risks to the media's ability to freely criticize the government. However, in 2011 President Evo Morales took some steps to address objections from media groups by amending some disputed laws.

Accountability for Past Human Rights Abuses

In August 2011 a Supreme Court panel sentenced five generals to 10 to 15 years imprisonment for killing at least 60 people during anti-government protests in September and October 2003, when the army used lethal force to quell violent demonstrations in the highland city of El Alto (an event known as Black October). Two members of former President Gonzalo Sánchez de Losada's cabinet received three-year suspended sentences. Sánchez de Losada and other accused senior government members left the country immediately after the events.

The trial, which began in May 2009, followed an impeachment procedure known as a "trial of responsibilities." The law, which dates from 2003 and was rewritten in 2010, requires that trials of heads of state and ministers must first be authorized by the vote of two-thirds of Congress, after which the Supreme Court's criminal bench must approve the charges. The full Supreme Court then conducts the trial without the criminal bench. All members of the six-person panel that heard the case were appointed by pre-established and lawful procedures, without credible evidence of government interference.

Trial Delays in Political Violence Cases

Trials of opposition leaders, local government officials, and others accused of killings during violent clashes between supporters and opponents of President Morales have been subject to long delays. In September 2011 a La Paz court was still hearing evidence against 26 defendants in connection with a massacre in Porvenir, Pando department, on September 11, 2008, in which at least nine pro-Morales demonstrators were killed. The former prefect of Pando department, Leopoldo Fernández, who was indicted in October 2009 on charges of homicide, terrorism, and conspiracy, had been held for three years in a maximum security prison in La Paz, the capital.

A trial of former members of the regional government of Chuquisaca and former Sucre city officials in connection with a incident in May 2008, in which Morales supporters were taken hostage and made to strip to the waist, kneel, and beg forgiveness in the city square, did not start until March 2011. The trial has since been repeatedly postponed.

Military Jurisdiction

The determination of Bolivia's military courts to assert jurisdiction over human rights abuses has been an obstacle to accountability for many years. The military has often refused to allow members of the armed forces to testify before civilian courts, instead insisting on trying the cases in military court, which invariably ends in acquittals.

In a case involving a 26-year-old conscript, Gróver Poma, who died in February 2011 following a hand-to-hand combat training exercise—allegedly after instructors beat him on the head and chest—the Supreme Military Tribunal insisted that a military court try three implicated officers. A military investigation claimed Poma's death had been accidental, while the human rights ombudsman concluded that he had been brutally beaten. The military disregarded the ombudsman's requests to hand the case to a civilian court. It also disregarded a Senate resolution ordering it to do so, appealing the resolution before the Constitutional Court. Meanwhile, an investigation by a civilian prosecutor continued. At this writing the military still insisted on retaining jurisdiction. In September 2011 the civilian prosecutor began criminal proceedings against four junior officers who allegedly participated in the beating, but at this writing the military had still insisted on retaining jurisdiction.

In October 2010 the armed forces did agree to order four officers to appear before a civilian judge in a case involving the water torture of a recruit during a training exercise, after President Morales ordered that a civilian court try those responsible. In April 2011 the judge

dropped charges against four suspects after accepting a defense argument that torture could only be committed against someone in detention, and ordered their release. However, in July an appeals court overruled this decision, and the case continued at this writing.

Excessive Use of Force

In September 2011, police in riot gear used tear gas and batons to disperse demonstrators marching against a proposed highway project through the Isiboro-Sécure National Park, a protected indigenous territory in the Bolivian tropics. More than one hundred protesters were injured, according to the Bolivia office of the Office of the United Nations High Commissioner on Human Rights. The previous day, after skirmishes in which some police were reportedly wounded by arrows, the marchers had detained Foreign Minister David Choquehuanca, who had come to negotiate with them on the government's behalf, and forced him to march with them before releasing him. By the time the police acted the foreign minister had been released and the skirmishes had ended. On September 28 President Morales publicly apologized for the crackdown, saying there had been no presidential order to disperse the protesters.

Freedom of Media

Bolivia enjoys vibrant public debate, with a variety of critical and pro-government media outlets. However, in what remains a politically polarized atmosphere, President Morales sometimes aggressively criticizes the press, accusing journalists of distorting facts and seeking to discredit him.

Under a law against racism and other forms of discrimination passed in October 2010, media that "authorize or publish racist or discriminatory ideas" can be fined and have their broadcasting licenses suspended. Journalists "spreading ideas based on racial superiority or hatred" could face up to five years in prison. Media outlets protested these provisions, claiming they were so broad they could be used against media and journalists critical of the government.

Regulations governing the application of the law, which Morales signed into law in January 2011, addressed these criticisms in part by defining punishable offenses more precisely. The regulations stipulate that outlets could not be suspended for longer than 360 days at a time. Media would not be liable under the law if they report on expressions of racism, or if they broadcast racist expressions by third parties in live transmissions provided they caution or cut off the speaker.

A law governing the October 16, 2011 elections to the Supreme Court and Constitutional Court, promulgated in June 2010, would have banned any media comment on the candidates in the final three months before the elections, allowing only the Supreme Court to give information about them. Following criticism by opposition and media groups, the Supreme Court presented an amendment at Morales's invitation, which Congress approved. It allowed candidates to participate in debates and give press interviews, while the press was permitted to praise and criticize candidates as well as publish information different from that issued by the Supreme Court. Paradoxically, however, media were still banned from showing opinion programs on the candidates or giving them space to publicize their candidacy.

A draft law on telecommunications tabled in Congress in May 2011 has a clause obliging all radio and TV outlets as well as cable networks to broadcast presidential messages to the nation at their own expense. The absence of any limitations in this provision raises concerns that it may be abused in situations where there is no public interest to justify state intervention in broadcasting content.

Human Rights Defenders

In April 2011 a public prosecutor brought charges against lawyers Jorge Quiroz and Claudia Lecoña, who were representing the parents of two students killed after police broke up a protest in May 2010 in Caranavi, a department of La Paz. They were accused of *desacato* ("lack of respect") toward Marcos Farfán, deputy minister for the interior and police, for saying that he had committed a "cowardly act" by accusing them of procuring women for sex. Even though many Latin American nations have abolished *desacato* provisions, Bolivia still retains them: insulting a government minister can incur a three-year prison sentence.

In 2010 government officials had accused Quiroz of a string of offenses, including drug-trafficking, immigration irregularities, trafficking prostitutes, and acting as an "infiltrator" for the United States embassy in the Caranavi protests. However, no proof was provided or charges leveled, raising concerns that the government was targeting Quiroz because of his accusations that government officials and police were responsible for the deaths of the Caranavi students.

Key International Actors

The US government has failed to reply to a request by the government of Bolivia, first made in November 2008, to extradite former President Gonzalo Sánchez de Lozada and two of

his ministers so they can stand trial in Bolivia for the Black October events. In September 2011 UN High Commissioner for Human Rights Navi Pillay welcomed the sentences handed down by the Supreme Court as “an important step in the fight against impunity.”