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country summary

Bolivia

Lack of accountability for rights abuses remains a serious problem in Bolivia. The fate of scores who “disappeared” before democracy was re-established in 1982 has still not been clarified, and most perpetrators of disappearances and extrajudicial executions have escaped justice. In 2010 officials of President Evo Morales’s government backed the military when it failed to comply with court orders to provide access to information. During the same year the Bolivian Legislative Assembly passed anti-corruption laws that do not fully adhere to the rights to a fair trial and due process.

Due Process and Judicial Independence

Laws enacted in 2010 that are intended to strengthen accountability for past human rights abuses and corruption by government officials include provisions that contravene international standards of due process and fair trial, including the prohibition on the retroactive application of criminal law and the right to be present during trial.

An anti-corruption law establishing new crimes and harsher penalties passed in March 2010. It allows for individuals to be prosecuted for actions and behavior that was not criminalized before the law was adopted, a breach of the international law principle that criminal provisions may not be applied retroactively. The anti-corruption law also makes it possible to try former heads of state in absentia, a provision incompatible with the right to be present during trial in order to exercise a proper defense.

In February 2010, responding to the crisis provoked by the legislature’s inability to agree on judicial appointments, President Morales obtained legislative approval to appoint five temporary justices to the Supreme Court, as well as temporary magistrates to the Constitutional Court, in a process that lacked the usual safeguards for selecting judges. The judges are to be replaced by permanent judges to be elected by universal suffrage in December 2010.

Accountability for Past Abuses

Efforts in 2010 by prosecutors to reopen investigation into serious abuses committed under previous governments, particularly the military dictatorships of Hugo Banzer (1971-1978) and Luis García Meza (1980-1981), met with resistance from Bolivian armed forces. Instead of guaranteeing full military cooperation with such investigations, the government backed the armed forces in conflicts with prosecutors and judges.

In February 2010 an investigating judge ordered the army to turn over information that could help clarify “disappearances” that occurred in 1980. The defense minister assured that access would be granted. However, when the public prosecutor, Milton Mendoza, visited army headquarters to request a view of the files, he was turned away on the grounds that the army first needed to put the documents in order. Another prosecutor was allowed into the building a week later, but was allowed only to view the contents of a filing cabinet, and not to remove or photocopy documents. The armed forces eventually provided only a photocopied register of personnel on active service in 1980. In April 2010 the Supreme Court issued a further ruling ordering the declassification of files covering the first year of the García Meza dictatorship. However, at this writing the army continued to defy the order and has provided no information to help clarify the fate of the “disappeared.” Mendoza, whom Vice-President Alvaro García Linera publicly criticized for overstepping his mandate, was taken off the case.

In October 2010 the Supreme Court upheld the conviction of 11 former police and military officers for their role in the murder in 1980 of socialist leader Marcelo Quiroga Santa Cruz. It sentenced three of them in absentia to 30 years in prison on charges including terrorism and murder, and the others to shorter prison terms for covering up the crime. Quiroga’s remains have still not been found.

In November 2008 Bolivia’s government requested the extradition of former president Gonzalo Sánchez de Lozada and two of his ministers to stand trial for killing at least 60 people in 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. As of November 2010 it has received no response from the United States government.

Sánchez de Lozada resigned and fled to the US after the events, known in Bolivia as “Black October.” The three men, as well as other ministers who were given asylum in Peru, have been declared fugitives from justice. In August 2010 the prosecutor filed charges against three senior military officials, including a former commander-in-chief of the armed forces, for

destroying military documents, including a log believed to have recorded details of the events and the personnel who participated.

Military Jurisdiction

The determination of Bolivia's military courts to assert jurisdiction over human rights abuses has been a major 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. However, in an important precedent in September 2010, the army commander-in-chief—at President Morales's insistence—ordered four officers accused of subjecting a conscript to water torture in September 2009 to appear before a civilian court.

Political Violence and Impunity

Impunity continued to be a problem in 2010. Investigations into deaths and injuries that occurred during violent protests in 2008 and 2009 over Bolivia's new constitution and demands for autonomy by five regional departments were ineffective and subject to long delays.

In June 2010, after long delays due to conflicts over jurisdiction, a court in La Paz began to hear a case against 26 defendants in connection with the killing of at least nine pro-Morales demonstrators in Porvenir, Pando department, in September 2008. The accused included the former prefect of Pando department, Leopoldo Fernández, who was indicted in October 2009 on charges of homicide, terrorism, and conspiracy. He was still in preventive detention in September 2010.

The Attorney General's Office also failed in 2010 to conduct a thorough and impartial investigation into the circumstances in which three Europeans were shot dead in April 2009 when an elite police unit broke into their rooms in a Santa Cruz hotel. The public prosecutor accused the men of being mercenaries engaged in a plot to kill President Morales, and named several government opponents alleged to have hired them. However, the evidence he offered to support the official version that the three men were involved in a firefight when they were killed was widely questioned. The government rejected calls from European governments for an independent investigation.

Media Freedom

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. In January 2010, he warned journalists that he would establish norms “so that the media don’t lie.” However, at this writing the government has presented no proposals for legislation on the media.

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. Media outlets protested these provisions, claiming they were so broad that they could be used against media critical of the government.

Human Rights Defenders

In August 2010, police searched and removed computers from the office and home of Jorge Quiroz and Claudia Lecoña, lawyers for the parents of two students killed when police broke up a protest in May in Caranavi, in the department of La Paz. Quiroz, who worked as a volunteer for the La Paz Permanent Assembly of Human Rights, reportedly accused police of using excessive force. Government officials accused Quiroz of a string of offenses, including drug-trafficking, immigration irregularities, acting as an “infiltrator” for the US embassy in the Caranavi protests, and trafficking prostitutes. However, no proof was provided or charges leveled, raising concern that the government aimed to discredit Quiroz because of his accusations against the police.

Sexual Orientation and Gender Identity

The new constitution explicitly bans discrimination based on sexual orientation and gender identity. The anti-racism law under debate in Congress provides a penalty of up to five years imprisonment for anyone who discriminates on the basis of sexual orientation or gender identity, and an even higher penalty of up to seven-and-a-half years if the offender is a public official.

Key International Actors

In October 2010 the Inter-American Court of Human Rights found Bolivia responsible for multiple violations of human rights in relation to the enforced disappearance of Rainer Ibsen Cárdenas, a student, and his father, José Luis Ibsen Peña, during the military dictatorship of Hugo Banzer in the early 1970s.