



**International Convention
on the Protection of the
Rights of All Migrant
Workers and Members
of Their Families**

Distr.
GENERAL

CMW/C/BOL/1
7 May 2007

ENGLISH
Original: SPANISH

COMMITTEE ON THE PROTECTION OF THE
RIGHTS OF ALL MIGRANT WORKERS AND
MEMBERS OF THEIR FAMILIES

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 73 OF THE CONVENTION**

Initial reports of States parties due in 2004

BOLIVIA*

[31 January 2007]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. INFORMATION OF A GENERAL NATURE	1 - 29	3
II. IMPLEMENTATION OF THE CONVENTION	30 - 215	9
A. Part I of the Convention: Scope and definitions	30 - 31	9
B. Part II of the Convention: Non-discrimination with respect to rights	32 - 37	9
C. Part III of the Convention: Human rights of all migrant workers and members of their families	38 - 152	11
D. Part IV of the Convention: Other rights of migrant workers and members of their families who are documented or in a regular situation	153 - 196	32
E. Part V of the Convention: Provisions applicable to particular categories of migrant workers and their families	197 - 203	42
F. Part VI of the Convention: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families	204 - 215	43

I. INFORMATION OF A GENERAL NATURE

Political and administrative aspects*

1. **Official name.** Republic of Bolivia.
2. **General.** The Republic of Bolivia was created on 6 August 1825 as a free, independent, sovereign, multi-ethnic and multicultural nation, as declared in article 1 of the Constitution. It also adopted for its government that of a unitary republic, based on democracy, representation and presidential rule.
3. **Constitutional capital.** The city of Sucre (founded in 1538 by Pedro Anzúrez de Campo Redondo) was designated as Constitutional Capital of the Republic. The Seat of Government is the city of La Paz, founded in 1548 by Alonso de Mendoza.
4. **Political division.** The country is divided politically and administratively into 9 departments, 112 provinces and 327 municipalities.

Departments

Department	Area (km ²)	Provinces	Municipalities
Bolivia	1 098 581	112	327
Chuquisaca	51 524	10	28
La Paz	133 985	20	80
Cochabamba	55 631	16	45
Oruro	53 588	16	35
Potosí	118 218	16	38
Tarija	37 623	6	11
Santa Cruz	370 621	15	56
Beni	213 564	8	19
Pando	63 827	5	15

Political division into Departments

Department	Capital	Metres above sea level
Chuquisaca	Sucre	2 790
La Paz	La Paz	3 640
Cochabamba	Cochabamba	2 558
Oruro	Oruro	3 709
Potosí	Potosí	4 070
Tarija	Tarija	1 866
Santa Cruz	Santa Cruz de la Sierra	416
Beni	Trinidad	236
Pando	Cobija	221

* Data compiled by the National Statistical Institute (INE).

5. **National day.** 6 August, Independence Day.
6. **State authorities.** Article 2 of the Constitution establishes that sovereignty resides in the people, that it is inalienable and imprescriptible, and that its exercise is delegated to the legislature, executive and judiciary. The independence and coordination of these authorities form the basis of government.
7. **Executive.** This is composed of a President and Vice-President of the Republic, elected by direct suffrage for a period of five years. There are 16 ministries:
 - (a) Ministry of Foreign Affairs and Worship;
 - (b) Ministry of the Presidency;
 - (c) Ministry of the Interior;
 - (d) Ministry of National Defence;
 - (e) Ministry of Sustainable Development and Planning;
 - (f) Ministry of Financial Affairs;
 - (g) Ministry of Economic Development;
 - (h) Ministry of Rural and Farming Affairs;
 - (i) Ministry without Portfolio of Indigenous Affairs and Native Peoples;
 - (j) Ministry of Services and Public Works;
 - (k) Ministry of Education;
 - (l) Ministry of Health and Sport;
 - (m) Ministry of Labour;
 - (n) Ministry of Mining, Oil and Gas;
 - (o) Ministry without Portfolio of People's Participation;
 - (p) Presidential Delegate for Combating Corruption;
 - (q) Presidential Delegate for reviewing and improving Capitalization;
 - (r) Presidential Delegate for Institutional Development.

8. **Judiciary.** This is made up of the Supreme Court of Justice of the Nation (12 judges), the Constitutional Court, the Judicature Council, Superior district courts and ordinary courts of justice.
9. **Legislature.** This exercises its functions in the National Congress, made up of the House of Senators and House of Deputies, consisting of 27 senators and 130 deputies, respectively.
10. **Citizenship and suffrage.** Chapter II of the Constitution establishes that citizenship consists of participating as a voter or standing for election.
11. **Constitutional President of the Republic.** Mr. Evo Morales Aima, elected by absolute majority on 22 December 2005.
12. **National holidays in 2004.** New Year, 1 January; Carnival, 23 and 24 February; Good Friday, 9 April; Labour Day, 1 May; Corpus Christi, 10 June; Anniversary of the Fatherland, 6 August; All Saints, 2 November; Christmas Day, 25 December.
13. **Departmental holidays.** Civic anniversaries: Oruro, 10 February; Tarija, 15 April; Chuquisaca, 25 May; La Paz, 16 July; Cochabamba, 14 September; Santa Cruz, 24 September; Pando, 1 October; Potosí, 10 November; and Beni, 18 November. By Supreme Decree these holidays shall be moved to the first or last day of the week in order to promote domestic tourism.
14. **Name of inhabitants.** Bolivians.
15. **Flag.** Three horizontal stripes of equal breadth, coloured red (upper), yellow (central) and green (lower).
16. **Languages.** Spanish (the most widely spoken); Quechua, Aymara and Guaraní, the three main native languages.
17. **Monetary unit.** The boliviano (Bs).
18. **Religion.** The State recognizes and upholds the Catholic Religion as the official religion but it guarantees the public exercise of any other form of worship (art. 3 of the Constitution).
19. Places and events declared part of the world cultural heritage by the United Nations Educational, Scientific and Cultural Organization (UNESCO):
 - (a) City of Potosí (declared 11 December 1987);
 - (b) Jesuit Missions of the Chiquitos (12 December 1990);
 - (c) City of Sucre, Historic City (13 December 1991);

- (d) Samaipata (5 December 1998);
- (e) Archaeological Ruins of Tiwanacu (30 December 1987);
- (f) Noel Kempff Mercado National Park (13 December 2000);
- (g) Oruro Carnival (18 May 2001).

20. **Location and territory.** Bolivia is located in the centre of South America between 57° 26' and 69° 38' west of the Greenwich meridian and 9° 38' and 22° 53' south of the Equator, or more than 13° north-south and west-east. The total area is 1,098,581 square kilometres.

21. **Borders.** Bolivia is bordered to the north and east by Brazil, to the south by Argentina, to the west by Peru, to the south-east by Paraguay and to the south-west by Chile.

22. **Physical geography.** Bolivia is divided into three main geographical areas, described below.

23. **Geography of Bolivia:**

(a) **Andean region:** Accounting for 28 per cent of the country's total area, the Andean region covers some 307,000 square kilometres. The region is situated over 3,000 metres above sea level and lies between the two main Andean ranges: the Western and Eastern or Royal ranges, which include some of the highest peaks in the Americas. The region includes Lake Titicaca, at 3,810 metres above sea level, considered to be the highest in the world. This lake covers a total of 8,100 square kilometres, making it the 24th largest in the world - 3,690 square kilometres are situated in Bolivia and the rest in Peru; it is plied by large boats and encloses a number of islands, such as the isla del Sol, isla de la Luna and Koati;

(b) **Sub-Andean region:** This intermediate region between the highland plains and the eastern lowlands accounts for 13 per cent of Bolivian territory, and includes the valleys and "yungas" or cloud forests (at an average of 2,500 metres above sea level). It is largely made up of farmland and it has a temperate to warm climate (15 to 25° C);

(c) **Lowlands:** These cover 59 per cent of the total area and lie to the north of the Eastern or Royal mountain range, which stretches from the Andean foothills to the river Paraguay. An area of plains and low plateaux, the lowlands are covered by extensive forest that is rich in flora and fauna. The mean annual temperature is between 22 and 25° C.

24. **Relief.** Where the Andes enter Bolivia they split into various branches. In the north, the Vilcanota or Apolobamba fork forms the Western or Volcanic range, and the Royal or Central range. The Western range divides into three sections: the Lakes or Northern section, the Central section, and the Southern or Volcanic section. The Royal range splits into six branches: Apolobamba, Muñecas, the Royal or La Paz branch, Tres Cruces, Santa Vera Cruz and

Cochabamba. The Central range emerges in the north-east and south-east and is formed by three chains: the Northern or Azanaques range, the Central or Los Frailes range, and the Southern range, which includes the Chichas and Lipez ranges.

25. Main mountains over 6,000 metres.

Name	Range	Department	Metres	Feet
Sajama	Western	Oruro	6 542	21 464
Illampu	Royal or Eastern	La Paz	6 421	21 067
Illimani	Royal or Eastern	La Paz	6 402	21 005
Hanko Uma	Royal or Eastern	La Paz	6 380	20 933
Chiaraco	Royal or Eastern	La Paz	6 240	20 473
Pomerape	Western	Oruro	6 222	20 414
Chachacomani	Royal or Eastern	La Paz	6 150	20 178
Parinacota	Western	Oruro	6 132	20 119
Huayna Potosí	Royal or Eastern	La Paz	6 088	19 975
Chaupi Orkho	Royal or Eastern	La Paz	6 040	19 817
Acotango	Western	Oruro	6 032	19 791
Uturuncu	Western	Potosí	6 008	19 712

26. Rivers and lakes. In Bolivia there are three hydrographic systems: the Northern or Amazon Basin: its main rivers, running east to west, are the Madre de Dios, Orthon, Abuná, Beni, Yata, Mamoré and Iténez or Guaporé rivers. The Central or Lakes Basin is formed by lakes Titicaca and Poopó, the Desaguadero river and major salt flats such as Coipasa and Uyuni. The Southern or La Plata basin is mainly composed of the Paraguay, Pilcomayo and Bermejo rivers.

27. Main lakes and salt flats by size and department.

Name	Department	Area (km ²)	Average altitude (metres above sea level)
Lakes			
Titicaca*	La Paz	8 030	3 810
Poopó	Oruro	1 337	3 686
Huaytunas	Beni	360	200
Rogagua	Beni	350	200
Rogaguado	Beni	324	200
Uru Uru	Oruro	214	3 692
Salt Flats			
Uyuni	Potosí	10 582	3 656
Coipasa	Oruro	2 218	3 680

* 3,690 km² in Bolivia.

28. **Main rivers by hydrographic basin**

Name	Basin	Length (km)
Abuná	Amazon	400
Chipamanu		
Rapirran		
Acre	Amazon	100
Apere	Amazon	250
Baures	Amazon	520
Concepción		
Caliente Blanco		
Beni	Amazon	980
Bermejo	La Plata	120
Santa Rosa		
Condado		
Chapare	Amazon	380
Desaguadero	Central Lake (Poopó)	360
Iténez	Amazon	600
Guaporé		
Ichilo		
Itonomas	Amazon	820
Madre de Dios	Amazon	1 700
Mamoré	Amazon	2 000
Madidi	Amazon	320
Orthon	Amazon	390
Tahuamanu		
Paraguá		
Parapetí	La Plata	200
Pilcomayo	La Plata	700
Piraí	Amazon	280
Yacuma	Amazon	260
Yata	Amazon	480

29. **Climate.** Although Bolivia is located on the Tropic of Capricorn, it covers a variety of climates. If it were an entirely lowland country, its climate would be uniform. But the ambient temperature in Bolivia is regulated not only by latitude but also by altitude above sea level - in other words the temperature is higher in low-lying areas and vice versa; the air temperature falls by 0.55° C with every 100 metres gained in altitude. In the region dominated by the Royal or Eastern mountain range and the Western or Volcanic range, in western Bolivia, the climate is a highland one. Some peaks are always snow-covered and are affected by cold air from the South Pole, while at the same latitude the lowland plains enjoying a warm tropical climate.

II. IMPLEMENTATION OF THE CONVENTION

A. Part I of the Convention: Scope and definitions

Article 1

30. This article is consistent with the principle enshrined in article 6 of the Constitution of Bolivia, which states that:

“Every human being has legal personality and capacity, in accordance with the laws. He enjoys the rights, freedoms, and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, economic or social condition, or any other.”

31. Similarly, the American Convention on Human Rights, signed at the Inter-American Specialized Conference on Human Rights held in San José from 7 to 22 November 1969 - an instrument ratified by Bolivia - states in article 1 that: “The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.”

B. Part II of the Convention: Non-discrimination with respect to rights

Article 7

32. Article 6 of the Constitution of Bolivia states that:

“1. Every human being has legal personality and capacity, in accordance with the laws. He enjoys the rights, freedoms, and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, economic or social condition, or any other.”

“2. The dignity and freedom of the person are inviolable. To respect them and protect them is a primary duty of the State.”

33. In addition, article 7 stipulates that:

“Every person has the following fundamental rights, in accordance with the laws which regulate their exercise:

- (a) To life, health, and safety;
- (b) To freely express his ideas and opinions, by any means of dissemination;
- (c) To assemble and to associate for lawful purposes;
- (d) To work and to engage in commerce, industry, or any other lawful activity, under conditions which do not adversely affect the public interest;

- (e) To receive an education and acquire culture;
- (f) To teach under the supervision of the State;
- (g) To enter, remain in, travel through, and leave the national territory;
- (h) To make petitions, individually or collectively;
- (i) To private property, individually or collectively, provided it fulfils a social function;
- (j) To fair remuneration for his labor, such as to ensure for himself and his family a life worthy of a human being;
- (k) To social security, in the form determined by this Constitution and the laws.”

34. These constitutional principles are governed by specialized laws and codes such as the Civil Code, the Criminal Code and Code of Criminal Procedure, and the Labour Code.

35. Lastly, article 8 of the Constitution stipulates that:

“Every person has the following fundamental duties:

- (a) To obey and comply with the Constitution and the laws of the Republic;
- (b) To work, according to his capacity and capabilities, in some socially useful activity;
- (c) To acquire at least an elementary education;
- (d) To contribute, in proportion to his economic capacity, to the payment of the public services;
- (e) To care for, nourish, and educate his minor children, and to protect and support his parents if they are in a state of illness, poverty, or need;
- (f) To perform civic and military services which the nation requires for its development, defence, and preservation;
- (g) To cooperate with the organs of the State and the community in social service and security;
- (h) To safeguard and protect the property and interests of the community.”¹

36. In the same way as in the previous paragraph, these constitutional provisions and principles are governed by the specialized laws and codes.

¹ Adopted by the Constituent Assembly of 1966-1967, enacted on 2 February 1967; amended for the last time by Act No. 2650 of 13 April 2004.

Articles 83 and 84

37. Proposals for amendment, adaptation and updating of the existing legislation are under discussion, in accordance with the treaties ratified in this respect.

C. Part III of the Convention: Human rights of all migrant workers and members of their families

Article 8

38. Article 7,² paragraph (g), of the Constitution states that every person has the right to enter, remain in, travel through, and leave the national territory.

39. If a person feels unduly or illegally prosecuted, detained, tried or imprisoned so that his right of movement is restricted, he may appeal to a judicial authority for a writ of habeas corpus, a constitutional remedy governed by Act No. 1836 of 1 April 1998.³

40. The entry into and exit from Bolivian territory of migrant persons is governed by Supreme Decree No. 24423 of 29 November 1993, for the purpose of which operational State organizations and National Migration Service (SENAMIG) support units have been set up.

41. The operational organizations mentioned include the following:

- (a) The Department for Aliens;
- (b) The Department of Legal Affairs;
- (c) The Department of Inspections and Settlement;
- (d) The Departmental Migration Authorities.

Articles 9 and 10

42. In Bolivia, the right to life is recognized as one of the fundamental human rights in Article 7, paragraph (a), of the Constitution. Furthermore, life is a legally protected interest in Chapter VIII of the Bolivian Criminal Code (Offences against Life and Physical Integrity).⁴

² Ibid.

³ The Constitutional Court Act.

⁴ Adopted through Decree Law No. 10426 of 23 August 1972, issued in January 1973 and enacted through Act No. 1769 amending the Criminal Code.

43. In addition, the American Convention on Human Rights (Pact of San José, Costa Rica)⁵ and the International Covenant on Civil and Political Rights,⁶ which protect the right to life of every person in the States parties having ratified these international instruments, are constitutional norms of the Republic.

44. Article 12 of the Constitution provides for the prohibition of any form of torture, coercion, extortion or form of physical or moral violence as a guarantee of the person.

45. Moreover, Bolivia has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁷ which commits the State to prohibiting any act of torture against persons within its territory.

Article 11

46. Article 5 of the Constitution stipulates that: “No type of servitude is recognized and no one shall be compelled to render personal services without his full consent and due compensation. Personal services may be demanded only when so established by law.” This article applies to both nationals and aliens.

47. In addition, article 26 of the Bolivian Criminal Code lists the provision of work, *inter alia*, as a principal penalty, in accordance with article 28 of that Code, although such work is compulsory in nature, rather than forced. Article 5 of the Constitution is also taken into account to the extent that nobody may be compelled to render personal services without his full consent and due compensation.

48. Personal services may be demanded only if required by law.

49. Moreover, slavery is prohibited in the State, which acceded to the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.⁸

Articles 12, 13 and 26

50. The Bolivian State recognizes that immigration represents an important asset for the country, promoting demographic growth and potentially strengthening social and economic development through real investment and effective work.

⁵ Ratified by Act No. 1430 of 11 February 1993.

⁶ Acceded to by the State through Supreme Decree No. 18950 of 17 May 1982 and adopted in 1999.

⁷ Ratified by Act No. 1939 of 10 February 1999.

⁸ Supreme Decree No. 19777 of 13 September 1983.

51. The legal migration policy of the Bolivian State establishes three categories of immigration:

(a) Spontaneous immigration, which consists of the entry into the country of aliens who come on their own accord and at their own expense;

(b) Planned immigration, which is directed by the Bolivian State directly, or through government agencies abroad, or through the intervention of foreign agencies or international organizations, foreign governments or non-governmental international bodies, involved in migration programmes;

(c) Selective immigration, which concerns the entry into the country of investors, professionals, industrial or agricultural technicians and skilled labour.

52. All immigration must take into account the demographic requirements of the State and must foster economic, social and cultural integration.

53. The Bolivian State, within its immigration programmes, may allocate land and grant assistance, facilities and liberties to immigrants entering the country.

54. All aliens living in Bolivian territory enjoy the same protection as nationals under the Constitution and must comply with the Constitution and the legal migration provisions.

55. Article 3 of the Constitution guarantees the public exercise of any religious worship.

56. Furthermore, SENAMIG secures residence status for foreign missionaries and religious workers in the country, according to the relevant administrative procedures.

57. The requirements for obtaining one-year temporary residence for Catholic religious personnel are the following:

(a) Application and affidavit;

(b) Valid passport;

(c) Photocopy of passport entry, showing entry stamp, visa and details of descent;

(d) Certificate of the mission, archdiocese, diocese, parish or Episcopal Conference;

(e) Registration of residence delivered by the National Police;

(f) Criminal record from the National Police and International Police;

(g) Medical certificate stating that the applicant does not suffer from an infectious or contagious disease;

(h) Application file;

- (i) Photograph (4x4 centimetres);
- (j) Corresponding sticker.⁹

58. The requirements for two-year temporary residence for Catholic religious workers are the same as for permanent residence.

59. There are also requirements for non-Catholic missionaries covered by agreements. The requirements are the same as for Catholics except for the fact they must submit a certificate from the mission to which they belong, that states their work, together with a certificate from the Ministry of Foreign and Religious Affairs establishing the Framework Agreement of the Mission.

60. If the missionaries were married abroad, a marriage certificate, duly legalized and authenticated by the Ministry, is required. If they were married in the country, the original marriage certificate with the official seal is required. The requirements for their children under 18 years are the same as for Catholic religious workers.

61. Two-year temporary residence and indefinite residence for missionaries covered by an Agreement may be granted.

62. SENAMIG also takes into consideration the non-Catholic association of Mennonites, whose members must submit the documents mentioned and some specific requirements, such as a certificate from the Mennonite congregation to which they belong and evidence of the legal personality of its governing body. Members' children aged under 18 years must submit their birth certificate duly legalized and authenticated by the Bolivian Ministry of Foreign and Religious Affairs, together with its translation into Spanish.

63. For missionaries not covered by an agreement and their children under 18 years, the administrative procedure is also applicable, with the submission of the required documents as described.

64. The Department of Religious Affairs of the Ministry of Foreign and Religious Affairs uses a special registry on agreements between the Bolivian State and other countries in relation to religious subjects and missions.

65. Religious missions and, in particular, religious workers from the Catholic Church, have preferential treatment with regard to migration fees.

66. Missionaries covered by an agreement also have special treatment with regard to migration fees, paying 50 per cent of the total amount established. The only case in which no preferential treatment is applied is when missionaries are not covered by an agreement.

⁹ Further information on the requirements for religious personnel submitting an application may be found at the following Internet address: <http://www.rree.gov.bo/culto/culto.htm>.

67. The standards underlying the requirements established by SENAMIG are Act No. 2446 - the Executive Organization Act, and its Regulations (Supreme Decree No. 24423 of the Legal Regime of the National Migration Service).

68. Consequently, the right to freedom of thought, conscience and religion for migrant workers and their families is respected and supported by the Bolivian State.

69. In relation to article 26 of the Convention, paragraph 7 (b) of the Constitution recognizes the right to freely express ideas and opinions, by any means of dissemination - a right extended to migrant workers and their families as long as their opinions do not interfere with the internal affairs of the State or are not injurious to morality and social peace. This right is further recognized through international human rights instruments ratified by Bolivia.¹⁰

70. The Constitution recognizes the right of workers to associate for lawful ends. Also, labour legislation recognizes the right to organize, which is regulated in such a way as to facilitate the establishment of unions that are affiliated to the Central Obrera Boliviana.

Articles 14 and 15

71. The Constitution guarantees to all persons the inviolability of correspondence and private documents. Such documents cannot be confiscated except in the cases set forth in legislation and by reasoned order issued in writing by the competent authority.

72. The dignity of the person is an inviolable right. To respect it and protect it is a primary duty of the State.¹¹

73. It is prohibited to intercept private communications using a central communications control device, in accordance with articles 19 and 20 of the Civil Code.

74. Article 9 of the Bolivian Civil Code establishes that each person has the right to a name; that right is protected in article 12 of the Code. The rights to an own image, honour and intimacy are protected in articles 16, 17 and 18 of the Civil Code respectively.

75. Accordingly, migrant workers enjoy the protection of their civil rights. In criminal matters, title IX concerning crimes against honour enunciated in articles 282 to 290 establishes honour as a legal right.¹²

¹⁰ Universal Declaration of Human Rights; American Declaration on the Rights and Duties of Man; American Convention on Human Rights (Pact of San José); International Covenant on Civil and Political Rights.

¹¹ Constitution, article 6 II.

¹² Criminal Code, issued pursuant to Act No. 1768 amending certain provisions of the Code.

76. The Constitution establishes individual and collective private property as a fundamental right (art. 7 (i)), in conformity with article 22 of the Constitution and articles 86 and 106 of the Civil Code, which guarantee private property.

Articles 16, 17 and 23

77. With regard to liberty and security of person, article 7 (a),¹³ of the Constitution recognizes the right to liberty, insofar as personal safety falls within the remit of the Bolivian police, which has the duty to guarantee the security of persons.

78. Article 9 of the Constitution¹⁴ guarantees migrant workers and their families protection against any form of violence, physical injury, threats and intimidation by public officials or by private individuals, groups or institutions.

79. With regard to paragraphs 4 to 7 of article 16, article 233 of the Bolivian Code of Criminal Procedure (requirements for pretrial detention)¹⁵ establishes requirements for pretrial detention. Also, the principle of criminal procedural law underlying the above-mentioned Code establishes due process guarantees. This situation is reflected in many constitutional court judgements rendered in that respect.

¹³ “Every person has the following fundamental rights, in accordance with the laws which regulate their exercise: (a) to life, health and safety”, Constitution Act No. 1615 of 6 February 1995.

¹⁴ Article 9 states:

“No one may be arrested, detained, or imprisoned except in the cases and according to the forms established by law; the necessary warrant must be issued by the competent authority and served in writing.

A person may not be held incommunicado except in obviously serious cases and never for more than 24 hours.”

¹⁵ Article 233 states: “Once the formal charge is laid, the judge may order the pretrial detention of the accused, in response to a reasoned request from the prosecutor or the plaintiff, subject to the following conditions:

1. The existence of clear and convincing evidence that the accused is probably the perpetrator of or participant in a punishable act; and
2. The presence of clear and convincing evidence that the accused will fail to appear in court or will impede the ascertainment of the truth.” (Act No. 1970 of 25 March 1999.)

80. It is for defence counsel¹⁶ to establish contact with the consular authorities of the country of origin of the migrant worker or his or her family.

81. The State ensures the right to public exercise of religious worship, as part of the rights, freedoms and guarantees recognized by the Constitution, without distinction of any kind such as race, sex, language, religion, political or other opinions, origin or social or economic status.

82. This constitutional principle is consistent with the following constitutional rights:

- (a) To express ideas and opinions freely by any means of dissemination;
- (b) To assemble and associate for lawful purposes.

83. In addition, the American Convention on Human Rights and the International Covenant on Civil and Political Rights, which Bolivia has ratified, guarantee the right to freedom of religion in Bolivia.

84. Detention orders issued by a competent authority do not apply to migrant workers only. In this regard, all persons placed in detention are subject to the same rights and obligations. Foreign nationals who work, study or engage in any other activity in Bolivia, if detained, enjoy the same constitutional rights and guarantees as nationals.

85. The Vienna Convention on Consular Relations is the international instrument that applies to the detention of foreign nationals. It provides, in general, that all judicial authorities and public officials have the duty to inform the consul of the country of origin of a foreign national of his or her detention, be it pretrial detention, arrest, incommunicado detention or committal for trial.

¹⁶ The Act establishing the National Public Defence Service (Act No. 2496 of 4 August 2003) states as follows:

“Article 1. (Nature) The National Public Defence Service shall be established under the supervision of the Ministry for the Presidency as a decentralized institution responsible for running the public defence system, in accordance with article 16, paragraph 3, of the Constitution.

Article 2. (Purpose) The purpose of the National Public Defence Service shall be to guarantee the inviolability of defence by providing criminal defence services to all accused persons who lack sufficient means and to whom a defence lawyer is assigned. To this end, the Service shall be responsible for arriving at the solution which is most favourable to the accused.

86. In cases of unlawful detention or committal for trial, prison directors are obliged to inform the Director General of the Penitentiary System immediately, who must then contact the consul of the country of origin of the detained foreign national without delay.

87. When a request for hospitalization, transfer or similar measure is made to the competent authority, and the authority authorizes the execution of that measure, the consul of the country of origin of the detained foreign national must also be notified.

88. The General Directorate of the Penitentiary System attached to the Ministry of the Interior issues internal circulars to inform prison directors and staff of the provisions concerning the application of the Convention in respect of foreign citizens.

89. The visiting schedule for foreign detainees is unrestricted and they are subject to the same conditions as Bolivian detainees.

90. Each of the country's prisons has a legal aid office with two lawyers who provide advice and assistance to detainees. There is also a social assistance service operated by a social worker, which provides support to inmates.

91. When a foreign citizen is committed to any of the country's prisons, the director is responsible for their placement within the institution; however, foreign nationals are not granted any special advantages simply because they are foreign.

92. Rehabilitation programmes for prisoners consist chiefly of sports, educational activities and work.

93. Foreign detainees may request a prison transfer to serve their sentence in their country of origin. In such cases, the consul of the country of origin will assist with arrangements for the transfer, subject to compliance with the procedures established in the relevant treaties.

94. There are no cases of foreign minors or children of foreigners working in prison establishments.

95. The laws governing the Bolivian penal system allow certain "privileges", such as extramural activities, probation and extended leave, to which both foreigners and nationals are entitled.

96. There have been no cases in Bolivia where foreigners have requested transfer to another prison, because Bolivian legislation, such as Act No. 2298 on the enforcement of sanctions and sentences, is respectful of the rights of inmates, a case in point being the 15-day extended leave granted by the judge to inmates who have served two fifths of their sentence.

97. The number of foreign nationals in prison up to 2004 is recorded as follows:

La Paz	215
Santa Cruz	152
Cochabamba	9
Beni	5
Pando	41
Tarija	9
Sucre	4
Potosí	4
Oruro	22
Total	471

98. The Bolivian prison inmate population includes various nationalities such as Peruvian, Uruguayan, Swedish, South African, British, Korean, Brazilian, Argentinean, Colombian, German and Spanish.¹⁷

99. In 2004, the following foreign nationals were imprisoned in the country:

Argentina	1
Brazil	1
Colombia	3
Chile	1
Peru	11
Total	17

100. Also, the Ombudsman, in accordance with his mandate established pursuant to article 127 of the Constitution, monitors compliance with personal rights and guarantees. He has free access to detention centres, prisons and other places of confinement. In short, he ensures that detainees are treated humanely and with due respect for their inherent dignity and for their cultural identity.

101. Lastly, article 12 of the Constitution protects human rights and prohibits any form of torture, coercion, extortion or other form of physical or moral violence, under penalty of immediate removal from office without prejudice to further sanctions of any person who applies, orders, instigates or consents to such acts.

102. In compliance with this principle in the Convention, the State adopted Act No. 1488 of 14 April 1993 on banks and financial institutions, which covers banking establishments as authorized financial institutions, of national or foreign origin, that are ordinarily engaged in intermediation transactions, and the provision of financial services to the public in the framework of the specialized law.

¹⁷ See document “Realidad penitenciaria de Bolivia en cifras” containing statistics on Bolivian prisons for the period 2004-2005 compiled by the General Directorate of the Penitentiary System of the Ministry of the Interior.

103. It also regulates the work of financial institutions whose corporate purpose relates to intermediation and financial services.

104. Financial intermediation is defined as regular activity performed by an authorized financial institution only, consisting of mediation between supply and demand of financial services.

105. The scope of the Act covers financial intermediation and auxiliary financial services.

106. For these purposes, financial intermediation activities and auxiliary services of the financial system are defined as follows:

(a) Receiving money from natural or legal persons in the form of deposits, mutual loans or in any other type for placement in the capital of the financial institution, in loans or internal investments;

(b) Issuing, discounting or negotiating securities and other bonds;

(c) Providing deposit services in bonded warehouses;

(d) Issuing travellers cheques and credit cards;

(e) Carrying out sale and purchase transactions and currency exchange;

(f) Carrying out trust and financial intermediation mandates, administering third-party funds, operating clearinghouses and providing warranties and bank guarantees;

(g) Conducting financial leasing transactions and factoring, if these activities are normally performed by financial intermediation entities;

(h) Assessing financial corporations.

107. Lastly, it is provided that the financial intermediation and auxiliary financial service activities specified in the preceding paragraph shall be conducted by financial entities authorized by the Superintendence of Banks and Financial Entities, which is the State institution responsible for monitoring such activities.

108. With regard to article 24, Bolivian embassies and consulates abroad provide assistance to Bolivians working abroad, ensuring respect for their rights and providing legal assistance to those who have been detained. In cases of expulsion, the consular authorities may prevent the departure of the persons concerned, provided that the Bolivian nationals can provide proof that their expulsion is unlawful and that they are protected by the law of the host country. When an expulsion order is issued, the consulates have the duty to issue safe-conduct passes, and to provide personal facilities and guarantees for the persons' return to their country.

Articles 16 and 18

109. Due process of law is recognized by the Bolivian Code of Criminal Procedure, article 12 of which provides for the principle of equality, allowing the parties equal opportunity to exercise their prerogatives and rights during proceedings. Similarly, article 16 of the Constitution, in line

with article 6 of the 1970 Act on the Code of Criminal Procedure, recognizes the principle of the presumption of innocence. As far as the hearing proper is concerned, article 340 of the Code of Criminal Procedure, referring to preparations for the trial, recognizes the rights set forth in article 18, paragraph 3, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Article 19

110. The Constitution establishes the following guarantees of the person:

“Article 9

No one may be arrested, detained or imprisoned except in the cases and according to the forms established by law; the necessary warrant must be issued by the competent authority and served in writing.

A person may not be held incommunicado except in obviously serious cases and never for more than twenty-four hours.

Article 10

Any offender caught *in flagrante delicto* may be apprehended by any person, even without a warrant, for the sole purpose of being brought before an authority or competent judge, who must take down his statement within twenty-four hours at the most.

Article 11

Wardens of prisons shall not admit anyone as a detained, arrested or imprisoned person without entering in their register a copy of the respective warrant. They can nevertheless retain within the prison grounds those who have been taken there, for the purpose of being brought before the competent judge within twenty-four hours.

Article 12

Any kind of torture, coercion, extortion or other form of physical or moral violence is prohibited under penalty of immediate removal from office, without prejudice to further sanctions, that of any person who applies, orders, instigates or consents to them.

Article 13

Attacks against personal safety render the immediate perpetrators thereof responsible, regardless of whether they obeyed higher orders in committing the offence.

Article 14

No person may be tried by special commissions, or turned over to judges other than those designated before the offence was committed or compelled to testify against himself in a criminal trial or against blood relatives up to the fourth degree inclusive, or in-laws up to the second degree, as defined by civil law.

Article 15

Public officials who, without a state of siege having been declared, take measures for the prosecution, confinement or exile of citizens and have these measures carried out, as well as those who close printing works or any other means of free expression of thought and resort to depredation or other form of attack shall be subject to payment of compensation for damages, whenever it is proved by civil suit, which may be independent of any corresponding criminal action, that such measures or steps were taken in violation of the rights and guarantees affirmed in this Constitution.

Article 16

An accused person shall be presumed innocent until proved guilty.

The right of defence of a person on trial is inviolable.

From the moment of his detention or capture, a detainee has the right to be assisted by counsel.

No one may be sentenced to any penalty without having first been heard and judged in a legal trial; and the penalty shall not be undergone unless it has been imposed by final sentence and by a competent authority. A criminal conviction must be based on a law in effect prior to the trial and subsequent laws shall be applied only if they are more favourable to the accused.

Article 17

There is no such penalty as disgrace or civil death. In cases of assassination, patricide or treason, the punishment of thirty years' imprisonment shall be applied without right of pardon. Treason is defined as complicity with the enemy during a foreign war.

Article 18

Any person who believes that he is being unduly or unlawfully prosecuted, detained, tried or imprisoned may appear, in person or through anyone acting in his name, with or without a notarized power of attorney, before the District High Court or before any local court (*Juez de Partido*) of his choice to demand that legal formalities be followed. At places where there is no *Juez de Partido* this may be done before an examining magistrate (*Juez Instructor*).

The judicial authority shall immediately set a date and time for a public hearing, ordering that the defendant be brought before it. With this order a personal summons or warrant shall be issued to the office of the requested authority and such order shall be obeyed, without objection or excuse, by that authority and by those in charge of prisons or places of detention, who after receipt of the summons may not disobey the order on grounds of higher orders.

In no event may the hearing be suspended. After the facts have been examined, the judicial authority shall at the same hearing issue a judgment ordering the release of the accused, the correction of legal defects, or the placing of the defendant at the disposal of a competent judge. The decision must be carried out forthwith. The Constitutional Court shall automatically review the decision, within twenty-four hours, but without such review suspending execution of the judgment.

If the defendant after attending the hearing leaves before hearing the judgment, the latter shall be validly notified within the courtroom. If he does not attend, the hearing will be held in absentia and after the statement of the defendant or his representative has been heard, the judgment will be rendered.

Public officials or private persons who resist judicial decisions, in the cases covered by this article, shall be brought, by order of the authority who heard the habeas corpus proceedings, before the criminal judge for trial as violators of constitutional guarantees.

Any judicial authority who does not act in accordance with the provisions of this article shall be subject to the sanction prescribed by article 127, paragraph 12, of this Constitution.

Article 19

In addition to the right of habeas corpus, to which the preceding article refers, amparo appeal may be filed against the illegal acts or undue omissions of officials or private individuals who restrict, deny or threaten to restrict or deny the rights and guarantees of the person recognized by this Constitution and the law.

An amparo appeal may be filed by any person who believes that he has been wronged or by another duly authorized person - save as otherwise provided by article 129 of this Constitution - before the High Courts in department capitals and before a magistrate's court, in the provinces, in summary proceedings.

The Public Prosecutor's Office may also automatically file such an appeal if the person concerned has not done so, or has been unable to do so.

The authority or defendant shall be summoned in the manner indicated in the preceding article for the purpose of giving information and, if pertinent, of presenting the action taken concerning the reported act, within a maximum period of forty-eight hours.

The final decision shall be rendered at a public hearing immediately upon receipt of the testimony of the defendant and, in default thereof, it shall be made on the basis of the evidence offered by the appellant. The judicial authority shall examine the competency of the official or the acts of the private individual, and if the complaint is found to be true and real the requested amparo will be granted provided there is no other means or legal recourse for the immediate protection of the rights and guarantees which have been restricted, suppressed or threatened, and the decision shall be referred automatically to the Constitutional Court within twenty-four hours for review.

The prior rulings of the judicial authority and the final decision granting amparo are to be executed immediately and without objection, the provisions of the preceding article being applicable in the event of opposition.

Article 20

Private papers and correspondence are inviolable and may not be seized except in cases prescribed by law and by reasoned order of a competent authority delivered in writing. Seized or intercepted private documents shall have no legal effect.

No public authority nor any person or organization may intercept private conversations or communications by means of a centralized control installation.

Article 21

Every house is an inviolable asylum; at night it shall not be entered without the consent of the person living there, and in the daytime entrance thereto is only allowed by reasoned order of a competent authority delivered in writing, except in cases of flagrante delicto.

Article 22

Private property is guaranteed, provided that the use made thereof is not prejudicial to the public interest.

Expropriation may be effected in the public interest or if property does not fulfil a social purpose, authorized by law, subject to fair compensation.

Article 23

Confiscation of property shall never be applied as punishment for political offences.

Article 24

Foreign persons and enterprises are subject to Bolivian laws, and in no event may they invoke an exceptional position or have recourse to diplomatic claims.

Article 25

Within fifty kilometres of the frontiers foreigners may not acquire or possess, under any title, soil or subsoil, directly or indirectly, individually or as a company, under penalty of forfeiture to the State of the property acquired, except in the event of national necessity so declared by special law.

Article 26

No tax is obligatory unless it had been established in accordance with the provisions of this Constitution. Those affected may bring proceedings before the Constitutional Court against any illegal taxation. Municipal taxes are obligatory when levied in accordance with the principles established in this Constitution.

Article 27

Taxes and other public levies are payable equally by all. Their creation, distribution, and repeal shall be of a general character and must be determined on the basis of equal sacrifice for taxpayers, proportionally or progressively, according to the circumstances.

Article 28

The property of the Church, of religious orders and congregations, and of institutions engaged in educational, welfare and charitable pursuits shall enjoy the same rights and guarantees as that belonging to private individuals.

Article 29

The legislative power alone has the right to alter or modify the codes or to enact rules or provisions concerning judicial procedures.

Article 30

The public authorities may not delegate the powers conferred on them by this Constitution or transfer to the executive any other powers than are expressly authorized herein.

Article 31

The acts of those who usurp functions illegally shall be considered null and void, as shall also be the acts of those who exercise jurisdiction or powers not based on the law.

Article 32

No one shall be compelled to do what the Constitution or the laws do not order, or to forfeit whatever they do not prohibit.

Article 33

The law must take effect in the future and shall have no retroactive effect, except in social matters when expressly so stated and in criminal matters provided that it benefits the offender.

Article 34

Those who violate constitutional rights and guarantees shall be subject to ordinary jurisdiction.

Article 35

The declarations, rights, and guarantees enumerated in this Constitution shall not be understood as invalidating other rights and guarantees not proclaimed therein which emanate from the sovereignty of the people or from the republican form of government.”

Article 20

111. Bolivia gives effect to the provisions of the American Convention on Human Rights (Pact of San José, Costa Rica), article 7 of which enshrines the right to personal liberty.

112. Bolivia has also promulgated Act No. 1602 of 15 December 1994, which abolished imprisonment and physical constraint for economic obligations.

113. The social regime is enshrined in articles 156 to 164 of the Constitution.

Articles 21 to 23

114. The use of identity documents for foreigners is established in articles 50 to 52 of Supreme Decree No. 24423 of 29 November 1996.¹⁸ Foreigners must sign on at the foreigners’ registry, then apply at the relevant local government office for a foreign student’s card, for those with student permits, or for a foreigner’s identity card for those who have obtained temporary or permanent residence status.

115. The foreign student’s card is valid for one year, and can be renewed in accordance with the provisions established in article 30. The foreigner’s identity card is valid for up to two years for those with temporary residence status. For asylum-seekers and refugees, it is valid for one year renewable, and for those with permanent residence status, it is valid for five years, renewable. These cards must be carried at all times, and any official may demand to see them. They are proof of the carrier’s identity only, and enable the carrier to travel throughout the country.

116. The owners or managers of hotels, hostels, boarding houses, guest houses and lodgings must check that foreigners have a valid passport or foreigner’s identity card before providing them with accommodation. They must also enter all foreign guests’ names on their registers and submit a copy of passenger movement figures to the nearest local government or migration office every week.

117. Property owners may not rent their property or part thereof to foreigners who are not in possession of a foreign student’s card or a foreigner’s identity card, whichever is appropriate, and those card numbers must figure on any written rental contract that is drawn up.

¹⁸ Decree on the Legal Migration Regime.

118. Work permits for foreign citizens are regulated by the same Decree.¹⁹ Authorizations for temporary residence, permanent residence, asylum status or refugee status allows foreigners to work as self-employed or for others. In order to do so, they must register with the Foreign Labour Registry, at the Ministry of Labour, and apply there for a work permit.

119. Work permits must be carried at all times. They prove that the carrier is authorized to carry out paid work. The work permit is valid for as long as the carrier has temporary residence, asylum or refugee status. In the case of those with permanent residence status, it is valid for five years and must be renewed when it expires.

120. A foreigner who finishes a work contract, resigns or signs a new contract with the same company or a different one must report that fact to the Ministry of Labour's Department of Labour Migration or the government department that fulfils those functions in the provinces. Foreigners who change address must also inform the same department of that fact.

121. The International Covenant on Civil and Political Rights, together with articles 13 to 15 of the Convention, establish the provisions that are applied in Bolivia.

122. None of the provisions of the Bolivian legal system contradict article 23 of the Convention.

Articles 25, 27 and 28

123. Any citizen who is granted a licence to work²⁰ in accordance with the procedure established by the Ministry of Labour must abide by the provisions of the General Labour Act, and all the rights and obligations that ensue from it, such as working hours, annual and weekly leave, minimum age for admission to employment, etc.

124. The relevant legislation (Act No. 1732, Pensions Act) provides in article 1 that persons of Bolivian or any other nationality who were working for foreign entities from the time that the compulsory social security scheme was introduced irrespective of their legal status or whether they were working on Bolivian territory, must abide by the legislation on compulsory social security, except in the following cases:

(a) Diplomatic agents of foreign States and household staff working exclusively for them, provided they are not Bolivian citizens;

(b) Persons of the nationality of the contracting State who can duly prove that they are contributing to the contracting State's compulsory social security scheme for benefits in the case of invalidity, old age and death from common causes;

¹⁹ Ibid.

²⁰ The term "licence to work" under Bolivian legislation corresponds to the attestation of contracts or letters certified by a lawyer, granted by the Ministry of Labour.

(c) Persons of any nationality other than those under subparagraph (b) who can duly prove that they are contributing to a compulsory social security scheme for benefits in the case of invalidity, old age and death from common causes.

125. The Pensions Act specifies that, even if an employer provides employees who are required to be members of the compulsory social security scheme under article 1 of the Act with any other insurance, they are in no way exempt from compulsory membership of the Pension Fund Administrators, except in the circumstances established under that article.

126. Likewise, the Pensions Act provides that, in order for their exemption to be valid, persons listed in the exceptions in article 1 must submit original documentation duly proving that they are protected under the relevant compulsory social security scheme. Those documents must comply with the validation requirements established by law.

127. Lastly, the persons specified in article 1 of the Pensions Act who are not protected by a compulsory social security scheme will be obliged to join the Pension Fund Administrators as soon as this resolution is promulgated. They will have to make retroactive contributions to the compulsory social security scheme with effect from 1 May of the current year.

128. Supreme Decree No. 25902 of 15 September 2002 refers to Bolivian or foreign staff and their housing situation if they reside in Bolivia permanently and work for the diplomatic consular missions, special missions, international organizations and international cooperation organizations accredited by the State, and contribute to the long-term compulsory social security scheme (SSO). It also applies to foreigners who are employed in Bolivia and who are protected in their countries of origin or in other countries by a long-term social security scheme with similar coverage to that provided by the Bolivian compulsory social security scheme, and to foreigners who work for Bolivian diplomatic or consular missions and Bolivian missions abroad.

129. This Decree extends coverage to foreign workers who enter and leave the country, and specifies the requirements they must fulfil in order to access long-term benefits. There is therefore no provision in domestic social security legislation for migrant workers and their families.

130. Several meetings have been held on that issue, such as the Third Meeting of the Andean Committee of Social Security Authorities (CAASS) in Cartagena de Indias (Colombia) on 28 and 29 January 2005, which examined the draft regulation of the Andean Social Security Instrument.

131. All citizens who are granted a work permit in Bolivia also benefit from all the rights and obligations that ensue from labour law and other relevant provisions. Should that enjoyment be hindered on the grounds of nationality, the victims may apply to the courts for reparation for the damage incurred.²¹

²¹ Provision of the Ministry of Labour.

132. The State's policy on this issue is based on the principles embodied in the fundamental instruments of the United Nations on human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The principles and rules laid down in the relevant International Labour Organization instruments are also taken into account, particularly Convention No. 97 concerning Migration for Employment of 1949, and Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers of 1975.

133. At the Third CAASS Meeting, the Ministry of Health and Sport, through the Department of Social Security and Health Insurance, reached agreements, amongst others regarding the possibility of providing benefits under both short- and long-term insurance schemes to migrant workers and their beneficiaries, within the framework of Andean Pact Countries.

134. To that end, Bolivia submitted a model social security pact, including provisions on health care, procedures for health services and the requirements migrant workers need to fulfil in order to protect themselves and their beneficiaries.

135. Similarly, the Department of Social Security and Health Insurance, representing the Ministry of Health and Sport, cooperated with authorities of the Ministry of Foreign Affairs, the Ministry of Finance, and the Ibero-American Social Security Organization to develop a model social security convention for potential implementation under agreements with countries that are not members of the Andean Community. This document retains the broad outline of the initial agreements intended to protect migrants and their families, which constitutes significant progress in this area for Bolivia.

136. Moreover, the Universal Health Insurance for Mothers and Children (SUMI) is an insurance policy that provides universal, comprehensive protection free of charge for pregnant women from the start of pregnancy up to six months after giving birth, and to children from birth to 5 years of age. It therefore provides care within the framework of the current norms.

137. Lastly, emergency care in different health services is provided within the framework of the current provisions for all persons who may require it.

Future developments

138. The following should be noted:

(a) On the issue of social security, the documents that have been drawn up represent a major achievement, given that they will facilitate provision of reciprocal treatment with concerned countries, and migrant workers will receive the same benefits as their national counterparts;

(b) On the issue of regular medical care in public health services, a ministerial resolution is being drafted to provide migrants with equal care under all programmes and in all areas.

Obstacles

139. The following obstacles have been identified:

- (a) In the area of social security, there is no direct communication with concerned countries, which could delay progress on the social security for migrant workers project;
- (b) The funding policy could change, and might affect the provision of health-care services.²²

Articles 29 to 31

140. Article 9 of the Bolivian Civil Code provides that all persons have the right to a name, and the right to its protection;²³ this right is also protected by the Code for Children and Adolescents.

141. It is worth adding that education is an inalienable right enshrined in the Constitution. To that end, internal migration is considered in Ministerial resolution No. 001/05, which lays down general regulations on planning, organization, implementation and assessment in the 2005 academic year. In the area of formal education, it regulates student transfers from one district to another.

142. In order to enrol students who move from one establishment to another, within the same or to another education district, the following must be provided:

- (a) The original and a photocopy of the student's birth certificate or identity card;
- (b) The original and a photocopy of the student's school record, reports or official qualifications certificate.

143. Students who must move to another educational district during the academic year as a result of their parents' or tutors' work should be enrolled and accepted by the educational unit of their parents' choice upon presentation of the student's identity requirements, school record and reports or qualifications certificate.

144. In all cases of transfer from one unit to another within or outside the district, students must also present a certificate from the management of the educational unit, approved by the district directorate. This certificate is free of charge.

²² See the report of the Third CAASS Meeting and the model social security convention for migrant workers.

²³ Decree law promulgated 6 August 1975.

145. All areas and levels of education are based on an intercultural approach, and the education strategy is constantly being reviewed and updated, endeavouring to overcome budgetary restrictions. Various efforts have been made in relation to curricula, teacher training and institutional management in order to foster respect for and promote cultural identity and multiculturalism.

146. With regard to teacher training, two schemes have been set up for indigenous community teachers receiving training scholarships and subsequently returning to work in their communities. Another resource is the “Baccalaureate in Humanities with a specialization in teaching, which, in communities where there are not enough qualified teachers for the number of secondary school students, enables students to receive teacher training while studying for the Baccalaureate and subsequently to enter the labour market within their community as qualified teachers.

147. The Bolivian State has authorized the operation of educational units for migrants from other countries, including the German College Mariscal Braun for pupils of German origin and/or German-speaking pupils, and the Franco-Bolivian College for pupils of French origin and/or French-speaking pupils.

148. It is also important to consider the implementation of the regional calendar, that follows the work cycle of persons employed in the various regions of the country.

149. Accordingly, and taking into account the existence of initiatives related to international migration in particular, we consider it appropriate to promote a series of policies devoted to the issue, involving action in relation to internal and external population movements and the implementation of common migration policies among countries.

Articles 32 and 33

150. The national financial system places no restrictions on the free disposal of personal income and savings, in accordance with the existing legislation.

151. Regarding article 33, paragraph 1 (a) and (b), the information given to migrant workers and their families is in conformity with the rights provided by the General Labour Act, Supreme Decree No. 26877 of 21 December 2002 and Ministerial resolution No. 018/04 of 29 January 2004 - standards establishing the rules for the granting of work permits.

152. With regard to means of disseminating information, the Ministry of Labour publishes the resolutions and other standards established in relation to the treatment of migrant workers through mass media easily accessible to the general public. The same information is provided orally by the labour migration registration unit to anyone who requests it.

D. Part IV of the Convention: Other rights of migrant workers and members of their families who are documented or in a regular situation

Article 37

153. This article is consistent with the Constitution, the General Labour Act and its regulations, and the information provided by the Consular Sections of Embassies and Consulates of Bolivia.

Articles 38 and 39

154. Article 3 of the General Labour Act determines the legal status of foreign workers as follows:

“The number of foreign workers in an enterprise or establishment may never exceed 15 per cent of the total number of workers and shall consist exclusively of technical staff. Consequently, working communities must respect that principle and ensure that there are 85 per cent nationals employed at all times and that their work is protected by labour legislation and covered by social security.”

155. There may be up to 45 per cent female personnel in enterprises or establishments which, due to their nature, do not require a larger proportion of female workers.

156. Only Bolivian nationals are eligible to perform the functions of director, administrator, councillor or representative in State institutions and in private institutions performing an activity directly related to State interests, particularly in the economic and financial spheres.

157. Additional provisions regulating the labour relations of foreigners residing in Bolivia include:

(a) Ministerial resolution No. 051/86, of 3 March 1986, establishing the adoption of the Labour Regulations for Foreigners residing in the country in 5 chapters and 38 articles; foreigners are obliged to obtain a foreigner's work permit, within 45 days, in accordance with the procedure established in the Regulations. This permit must specify the following personal details:

- (i) Names and surnames of the father and mother;
- (ii) Nationality and date of birth;
- (iii) Marital status and profession;
- (iv) Passport number;
- (v) Current address;

- (vi) Number and names of dependants;
- (vii) Contracting enterprise (employer);
- (viii) Post and duties to be performed;
- (ix) Work address;
- (x) Duration of individual work contract;
- (xi) Other specific aspects of recruitment.

(b) Temporary extension of the work permit for foreigners: in agreement with the provisions of article 12 of the Labour Regulations for Foreigners, work permits, for both employed and self-employed individuals, are granted for the following periods:

- (i) The first time for six months;
- (ii) The second time for one year;
- (iii) The third and subsequent times for two years.

(c) Exceptions to the Labour Regulations for Foreigners, concerning scientists, professionals, technicians and other persons invited by the State through international agreements or treaties, duly accredited foreign journalists such as correspondents, and religious workers involved in the activities of their Ministry.

(d) Sanctions applied if an enterprise fails to comply with its obligations:

An enterprise that contracts the services of foreign nationals who have not fulfilled the requirements described in the Regulations for the Recruitment of Foreigners shall be liable for fines imposed by the Ministry of Labour, amounting to three times the employee's salary, payable by both parties.

(e) Irrevocability of labour rights: labour law and rules are part of public law owing to socio-legal nature of labour services, based on the establishment of individual work contracts, oral or written, according to the arrangements established by the national labour standards;

Labour rights apply on a personal basis (“*intuitu personae*”) and are non-transferable in view of their social nature; they are inalienable under the Bolivian legal system because they are intrinsically linked to the family unit, the irreplaceable foundation of the structure of society and of the State itself;

Article 4 of the General Labour Act stipulates that “all the rights recognized to workers under this Act are inalienable and any agreement to the contrary shall be null and void”.

(f) Leave (holidays);

In accordance with Supreme Decree No. 17228 of 18 March 1980, the following system applies in relation to leave:

- From 1 to 4 years' service: 15 working days;
- From 5 to 9 years' service: 20 working days;
- From 10 years' service upwards: 30 working days.

Seasonal workers are entitled to paid holidays, provided that when employed they are in regular receipt of a wage and that their absence from work does not exceed 15 days.

158. In order to guarantee the right of movement of migrant workers and their families in Bolivia, the Constitution and other substantive laws provide for the right to free movement throughout the territory. In addition, the writ of habeas corpus was established, which ensures that any person who believes that he is being unduly or illegally prosecuted, detained, tried or imprisoned may appear, in person or through anyone acting in his name, with or without a notarized power of attorney, before a District High Court or before any local court (*Juez de Partido*) of his choice to demand that legal formalities be applied. In places where there is no *Juez de Partido*, this may be done before an examining magistrate (*Juez Instructor*).

159. The judicial authority shall set a date and time for a public hearing, ordering that the defendant be brought before it. With this order a personal summons or warrant shall be issued to the office of the requested authority and such order shall be obeyed, without objection or excuse, by that authority and by those in charge of prisons or places of detention, who after receipt of the summons may not disobey on grounds of higher orders.

160. In no event may the hearing be suspended. After the facts have been examined, the judicial authority shall at the same hearing issue a judgement ordering the release of the accused, the correction of legal defects, or the placing of the defendant at the disposal of a competent judge. The decision must be carried out forthwith. The Constitutional Court shall automatically review the decision within 24 hours, but without such review suspending execution of the judgement. If the defendant after attending the hearing leaves before hearing the judgement, the latter shall be validly notified within the courtroom. If he fails to attend, the hearing will be held in absentia and after the statement of the defendant or his representative has been heard, the judgement will be rendered.

161. Public officials or private persons who resist judicial decisions, in the cases covered by this article, shall be brought, by order of the authority who heard the habeas corpus proceedings, before the criminal judge for trial as violators of constitutional guarantees.

Any judicial authority who does not act in accordance with the provisions of this article shall be subject to the sanction prescribed by article 127, paragraph 12, of this Constitution.

Articles 40 to 42

162. Article 7 of the Constitution stipulates that every person has the following fundamental rights, in accordance with the laws which regulate their exercise:

- (a) To life, health and safety;
- (b) To freely express his ideas and opinions, by any means of dissemination;
- (c) To assemble and to associate for lawful purposes;
- (d) To work and to engage in commerce, industry, or any other lawful activity, under conditions which do not adversely affect the public interest;
- (e) To receive an education and acquire culture;
- (f) To teach under the supervision of the State;
- (g) To enter, remain in, travel through, and leave the national territory;
- (h) To make petitions, individually or collectively;
- (i) To private property, individually or collectively, provided it fulfils a social function;
- (j) To fair remuneration for his labour, such as to ensure for himself and his family a life worthy of a human being;
- (k) To social security, in the form determined by this Constitution and the laws.

163. Foreign citizens may enjoy all the rights and duties conferred by the Constitution once they have obtained Bolivian nationality, in accordance with articles 37 (by naturalization) and 38 (by marriage), except the right to be elected President, Vice-President, Senator or Member of Parliament, since the Constitution states that the latter must be of Bolivian origin.

164. In addition, according to article 220, paragraph 2, of the Constitution, foreigners may vote in municipal elections, pursuant to the Electoral Code. This Code establishes that all Bolivian citizens as well as foreign citizens over 18 years of age who have been resident in Bolivia for two years and are registered in the National Electoral Roll must exercise the right to vote (Electoral Code, art. 93 (b)).

165. The posts of mayor, municipal councillor and cantonal official are no longer restricted to persons of Bolivian origin and are now open to Bolivian citizens, aged 21 years or above, having resided in the municipal jurisdiction concerned for the year prior to election, subject to the additional requirements referred to in article 106 of the Electoral Code, applicable to all candidates.

166. The number of foreign voters registered in the Electoral Roll is shown in the following table:

Origin	Number of persons registered
Argentina	438
Australia	8
Bangladesh	1
Belarus	1
Belgium	11
Brazil	550
Bulgaria	2
Canada	12
Chile	140
China	2
Colombia	67
Congo	1
Costa Rica	1
Croatia	2
Cuba	23
Czech Republic	2
Denmark	1
Dominican Republic	2
Ecuador	10
France	15
Germany	53
Guatemala	3
Honduras	3
Hungary	2
India	13
Iran (Islamic Republic of)	2
Israel	2
Italy	32
Japan	32
Korea (Democratic People's Republic of)	1
Lebanon	3
Libyan Arab Jamahiriya	3
Mexico	25
Moldova	6
Netherlands	13
New Zealand	1
Nicaragua	3
Norway	1
Pakistan	3
Panama	3
Paraguay	7
Peru	287

Origin	Number of persons registered
Poland	17
Portugal	6
Republic of Korea	23
Romania	1
Russian Federation	11
Saudi Arabia	1
Senegal	1
Somalia	1
Spain	93
Sweden	5
Switzerland	29
Syrian Arab Republic	1
Taiwan	5
Ukraine	4
United Kingdom	20
United States of America	19
United States Virgin Islands	1
Uruguay	19
Venezuela (Bolivarian Republic of)	6

Foreigners registered	2 050	0.05%
Total number of persons registered in the Electoral Roll	4 544 171	100.00%

167. Article 7 of the Constitution states that every person has the right to assemble and to associate for lawful purposes.

Articles 43, 54 and 55

168. The Constitution recognizes the right of everyone to access services such as education, health and housing without any form of discrimination.

169. In this context, the Vice-Ministry of Urban Development and Housing is working on the implementation of the Housing Funding Programme (PFV) - a programme aimed at both reducing the qualitative shortfall in the national housing supply and facilitating public access to ownership of new housing units, thereby reducing the quantitative shortfall.

170. This State housing programme is the only social housing programme and it will be implemented through subprogrammes (partial grant for initial deposit, revolving fund, healthy housing and productive social housing) which establish specific conditions for achieving the set objectives.

171. As far as eligibility for these subprogrammes is concerned, no restrictions are placed on the nationality of potential beneficiaries. The possibility of violating the right to housing of migrant workers in the country under this programme is therefore ruled out.

172. With regard to programmes for access to private housing in the country, the main restrictions are of course those determined by the market and the availability of funds, rather than conditions of nationality.

173. The Housing Unit of the Vice-Ministry of Urban Development and Housing has been duly authorized to fund consultations for the development of a rental law updating the current Rental and Housing Act, in force since 11 December 1959, which reveals gaps and inconsistencies. The new law will have to establish conditions for the protection of undocumented migrant workers in particular, who remain vulnerable to extortionate rent demands.

174. Regarding access to public work schemes intended to combat unemployment, although Bolivia is always implementing employment policies, no specific dates have been set for the implementation of such schemes for financial reasons.

175. Any migrant or Bolivian worker whose rights have been violated, totally or partially, may initially have recourse to the relevant administrative authority to claim those rights through conciliation; if that is unsuccessful, the individual may initiate legal proceedings, regardless of nationality.

176. Bolivia ensures equal treatment for nationals and foreigners with respect to work, provided that foreigners meet the relevant work permit requirements.

Articles 44 and 50

177. Family law is governed by Act No. 996 of 4 April 1988 (Family Code), articles 1 to 5 of which stipulate as follows:

Art. 1 - (BOLIVIAN FAMILY CODE). "Family relations shall be established and regulated by the present Bolivian Family Code (Arts. 6 and 7 of the Constitution; Act No. 1615 of 6 February 1996).

Art. 2 - (IMPLEMENTATION OF GUIDING PRINCIPLES). The competent judges, in resolving the matters brought before them, shall take into consideration the status or condition of the person as a member of the family unit and shall place greater emphasis on the interests of the family than on those of its members or of third parties (Arts. 1 to 20 of the Judicial Organization Act).

Art. 3 - (TREATMENT UNDER THE LAW). Members of the family shall be entitled to equal treatment under the law with regard to conjugal relations and filiation, as well as in the exercise of parental authority and in other similar situations, subject to no discriminatory provision or criterion incompatible with the essential worth and dignity of the human person.

Art. 4 - (PUBLIC AND PRIVATE PROTECTION OF THE FAMILY). The family, marriage and motherhood shall be placed under the protection of the State (Art. 193 of the Constitution; Act No. 996 of 4 April 1988).

Such protection shall be given effect by this Code, through special provisions and through those which provide security and assistance to the family or its members in specific respects. The family shall also be protected by the institutions established for this purpose under the supervision of the State.

Art. 5 - (PUBLIC ORDER). The provisions of family law shall be a matter of public policy and may not be renounced by individual decision, under penalty of nullity, except in cases specifically permitted by the law (Arts. 197 and 198 of the Constitution).

Art. 6 - (SCOPE OF FAMILY REGULATION). This Code shall regulate only the legal aspects of the family, without prejudice to the religious or moral duties of its members” (Arts. 197 and 198 of the Constitution; Act No. 1615 of 6 February 1995).

178. In addition, according to article 23 of the International Covenant on Civil and Political Rights:²⁴

1. “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.”

179. Article 50 is consistent with the Family Code, Act No. 996 of 4 April 1988.

Articles 45 and 53

180. According to article 6 of the Constitution, all human beings have legal personality and capacity. They further enjoy the rights, freedoms and guarantees recognized by the Constitution without any form of discrimination.

²⁴ Ratified by Bolivia.

181. There are no special regulations governing the situation of migrant workers' families according to the provisions of article 53; there are no prohibitions, however, other than those mentioned that restrict the activities of foreigners seeking employment.

Articles 46 to 48

182. Arrangements for the export of personal and household effects are governed by the provisions of the General Customs Act.

183. States parties are usually granted "national treatment" conditions under the Convention, providing for equal treatment of nationals and non-nationals; as a result, migrants enjoy the benefits, rights and freedoms granted to nationals in the framework of this Convention.

184. In this respect, Bolivia, through the Investment Act,²⁵ guarantees a system of free exchange without restrictions on the inflow and outflow of capital or on the transfer of dividends, interest and royalties outside the country, through transfer of technology or other commercial processes. The Act also provides, however, that all remittances and transfers shall be subject to taxation as established by law.

185. Accordingly, Bolivian law does not restrict such transfers, although there are regulations that establish requirements and formalities for the use of current accounts, fixed-term deposit accounts, or savings accounts without fixed term, subject to the regulations of each bank as approved by the Supervisory Authority for Banks and Financial Institutions.

186. The minimum requirements applied by financial institutions, in particular for withdrawals, include the identification of the beneficiary, by a valid identity card or passport (according to the rules of the National Migration Service).

187. **Statistics.** In respect of remittances and the procedures applied in the financial system to identify such transfers, the Central Bank of Bolivia collects information every quarter from the national banking system on transfers, money orders, cheques and other money transfers received from or sent to other countries. Also, quarterly data are requested from the main companies operating electronic funds transfers.

188. The statistics from the Central Bank of Bolivia on workers' remittances (those used to calculate the country's balance of payments) were the following for 2003 and 2004:

²⁵ Act No. 1182 of 17 September 1990.

**Workers' remittances
(million US dollars)**

	2003 ^P	2004 ^P
I. Received	110.2	126.9
Banks	36.5	37.6
Electronic funds transfer operators	73.7	89.3
II. Sent	36.1	33.0
Banks	16.5	15.8
Electronic funds transfer operators	19.6	17.2
III. Balance (I-II)	74.1	93.9

Source: National banking system and electronic funds transfer operators.

Note: ^P: Preliminary figures.

As drawn up by the Bolivian Central Bank, Economic Policy Advisory Service, Foreign Desk.

189. It is worth pointing out that the total amount of remittances may to some extent be underestimated, as remittances sent through other channels are not at present registered by the Bolivian Central Bank. The bank is however making efforts to broaden its sources of information on incoming workers' remittances.

190. As for the countries of origin and destination of the remittances, based on a representative sample for 2004, the main sources of remittances received and sent were the following:

**Workers' remittances received,
by country of origin, 2004
(Percentage of total)**

Country	Percentage
United States of America	29.5
Spain	18.1
Argentina	14.7
Italy	12.4
Peru	1.8
Chile	1.6
Others	22.0

**Workers' remittances sent,
by country of origin, 2004
(Percentage of total)**

Country	Percentage
United States of America	21.5
Argentina	18.6
Chile	9.9
Peru	8.3
Spain	5.3
Italy	0.7
Others	35.7

191. This question is very important for Bolivia, although it has still not been addressed with other countries where there are large Bolivian communities. As for foreign immigrants, here too there is still no detailed information. It is hoped that data will be obtained and organized at least on a provisional basis during the present year (2006).

Articles 51 and 52

192. The terms of these articles are in line with those of Supreme Decree No. 24423 establishing the Immigration Regime.

193. Migrant workers are treated in the same way as Bolivian workers, subject to constitutional restrictions (arts. 25, 61, 64, 88, 100, 117, 119, 126, 128, 221 and 217) in addition to the restrictions imposed by articles 3 and 102 of the General Labour Act.

194. As for migrant workers who are self-employed, this category of workers is governed by Ministerial Resolution No. 018/04 of 29 January 2004.

Articles 49 and 56

195. The terms of these articles are in line with Supreme Decree No. 24423 of 29 November 1996, the General Labour Act and its regulations.

196. Similarly, they are in line with the International Covenant on Civil and Political Rights, ratified by Bolivia.

E. Part V of the Convention: Provisions applicable to particular categories of migrant workers and of their families

Article 57

197. The terms of this article are in line with the section of the Constitution relating to fundamental rights.

Article 58

198. The terms of this article are in line with the section of the Constitution relating to fundamental rights.

Article 59

199. The provisions of this article have so far not given rise to any regulations.

Article 60

200. All rights of foreign workers are guaranteed, insofar as and to the extent that the workers comply with domestic laws and the requirements for obtaining work permits.

Article 61

201. This information should have been sent by the National Department of Migration, but the Department did not send it, on the grounds that it was not its responsibility to do so. The Deputy Minister of Urban Development and Housing and the Deputy Minister for Pensions and Financial Services were also supposed to send information.

The terms of this article have so far not given rise to any regulations.

Article 62

202. No information available.

Article 63

203. Ministerial Resolution No. 018/04 of 29 January 2004 (of the Ministry of Labour) sets out the treatment to be given to foreign workers who are self-employed. They enjoy all the rights and benefits granted by the Constitution and the labour laws to this category of workers, provided that they comply with all work permit requirements.

F. Part VI of the Convention: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Articles 65 and 66

204. All information for people interested in migrating to Bolivia for employment purposes is regularly supplied by the consulates.

205. Supreme Decree No. 24423 of 29 November 1996 establishing the Immigration Regime establishes that the State shall provide the same benefits and rights, freedoms and guarantees extended to citizens to foreigners from any part of the world who enter the national territory with the aim of establishing themselves permanently and contributing with their capital or their dedication and work to national development.

206. To that effect, “immigrant” is understood to mean any foreign industrialist, farmer, investor in export production or trade companies, professor of arts, sciences or trades, or anyone who carries out any socially beneficial activity with the aim of settling permanently in the national territory, integrating into Bolivian society and working in productive activities.

207. All immigration must take into account the nation’s demographic requirements and foster economic, social and cultural integration of the persons concerned.

208. The State, through its immigration programmes, may allocate lands and grant support, facilities and privileges to immigrants who come to the country to work the land, improve industry and teach sciences and arts, on the basis of the regulations adopted by the National Migration Board.

209. All foreigners residing in Bolivian territory enjoy the protection afforded to the country’s nationals by its Constitution and laws and are obliged to comply with the same, as well as with the legal provisions relating to migration.

Article 67

210. Notwithstanding the fact that the provisions of this article have still not given rise to regulations through specific provisions, freedom of movement is a principle guaranteed by the Constitution.

Article 68

211. The Ministry of Labour carries out periodic inspections of companies, during which inter alia the presence and status of foreign workers is checked; in the event that it is ascertained that there are foreign workers in an irregular situation, the corresponding penalties are applied under the General Labour Act and related standards.

Article 69

212. This aspect is negotiated bilaterally with countries that have migrants in Bolivia, through the above-mentioned policy advisory meetings and joint commissions, and through other types of negotiations.

Article 70

213. The measures applied to migrant workers are similar to those applicable to nationals, insofar as and to the extent that the migrants comply with work permit requirements. Some restrictions apply to the performance of public offices and to property in certain strategic areas of the national territory, in accordance with the terms of the Constitution.

Article 71

214. As for the repatriation of the bodies of deceased migrants or members of their families who die in other countries, diplomatic and consular officials are obliged to carry out formalities with the competent authorities of the receiving country and to issue the corresponding documents at the request of the families or dependents of the deceased.

215. In accordance with the Consular Regulations in force, the duties of Bolivian embassies and consulates include the obligation to assist and cooperate with Bolivians who are residents in other countries. For this reason, the families of the deceased may obtain legal aid, and the assistance of consular representations in dealing with formalities to obtain compensation for Bolivians who die in industrial or other accidents, in accordance with the national law of the receiving country and the international conventions concluded on this subject.
