



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

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

Eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 70th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 14 April 2008, at 3 p.m.

Interim Chairperson: Mr. KARIYAWASAM

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* No summary record was prepared for the second part (closed) of the meeting.

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 73 OF THE CONVENTION (agenda item 5)

Interactive dialogue with nongovernmental and governmental organizations and national human rights institutions concerning the initial report of Bolivia (CMW/C/BOL/1)

1. Mr. CHIARELLO (Scalabrini International Migration Network (SIMN)) said that his non-governmental organization's information concerning Bolivia had been collected by the New York Center for Migration Studies and the Fundación Scalabrini Bolivia, which were part of SIMN. In SIMN's view, Bolivian State bodies provided little information on the main migration trends in the country and the living conditions, status and rights of migrant workers and members of their families, a situation that could limit or even prevent action to protect such persons' rights. The diagnosis of the phenomenon of immigration and emigration in Bolivia and of its repercussions on the various facets of life in the country therefore needed to be constantly updated.
2. Migration was governed by Supreme Decree 24423 and that instrument should therefore apply the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, the decree suffered from a number of shortcomings that complicated and limited the procedures to protect migrants, with the result that many of its articles were waived and others had been declared unconstitutional. In practice, the time limits for the procedures were exceeded because of excessive bureaucracy in the National Migration Service, which was responsible for handling migrants' cases. The regularization of the situation of immigrants in Bolivia was therefore hampered both by that bureaucracy and by the high fees immigrants had to pay. The consequences were: first, that the decree did not adequately protect immigrants while their applications for regularization were being examined and processed and that the legal vacuum in which they then found themselves was contrary to the principles of the Convention; second, that their entire families lived in the same legal insecurity; third, that those problems could deter immigrants who wanted to regularize their situation and so their employers. In addition, there was a lack of coordination between government bodies and the civil society organizations working with migrants.
3. The concrete and effective application of the Convention and, through it, the protection of migrant workers' labour and social rights required faster procedures and lower fees for handling cases and stronger institutions, particularly a stronger National Migration Service. While the Bolivian authorities had made commendable efforts against a background of deep political and economic crises since 1996, the date of entry into force of the supreme decree, the country still needed real means of adopting the international standards for the protection of migrant workers and their families prescribed by the Convention, which it had ratified.
4. Three million Bolivians, a third of the total population, lived outside the country. Most of them were of working age, but many were illegal emigrants. Of the many Bolivians in Spain, 70%, or 140,000 people, were undocumented or in an irregular situation. As they were unable fully to exercise their labour rights, they were often exploited. The labour emigration was encouraged by travel agencies and specialised organizations that were outside State control and were the subject of numerous complaints of fraud. Whilst they had not ignored the problem,

civil and State institutions had been unable to establish measures or policies to curb it. Exploitation of children, who were especially vulnerable, occurred in Argentina, Brazil, Chile and Peru and was known thanks to members of pastoral movements who worked with Bolivian migrant communities. It was associated with trafficking of minors from Bolivia to neighbouring countries.

5. The Convention applied by definition to all migrant workers and members of their families. It must also apply, therefore, to Bolivians who emigrated. For that, Bolivia should conclude with countries where there were large numbers of Bolivian emigrants bilateral agreements on matters such as employment, economic and social rights and family reunification. In addition, Bolivian embassies and consulates should, as the rules on consular services required, provide assistance to Bolivian citizens living outside the country and cooperate with international and civil society organizations active in protecting the labour rights of Bolivian emigrants and their families.

6. Bolivia must put in place a real migration policy, perhaps by adopting a law on migration so as to harmonize the current legislation with international standards in areas such as categories of migrants, migrants' labour and social rights, political asylum, conditions of refuge and emigration.

7. Ms. DIEGUEZ ARÉVALO, noting that Latin American countries' consulates were generally very active, asked whether there were constitutional impediments to Bolivian consulates' providing good protection for migrant workers. Improving the situation would certainly require adopting a law on migration that took into account what was done in other countries.

8. The INTERIM CHAIRPERSON wondered what point there would be in having a law on migration if, as Mr. Chiarello had said, the provisions of the Convention were embodied in Bolivian law. For that matter, the scope of the Convention was so wide that no country could ever adopt a law embracing all its aspects. Clarification was needed as to what a Bolivian law would be able to cover.

9. Mr. El JAMRI wondered how many articles of the Supreme Decree were not applied or had been declared unconstitutional and what they concerned. He asked how many, if any, of the numerous Bolivians in an irregular situation in Spain had been able to obtain regularization in that country's recent large-scale regularization campaign. If none had, he would like to know the reasons for that.

10. Mr. CHIARELLO (Scalabrini International Migration Network) said in answer to the question from Ms. Dieguez Arévalo that the problem was not that consulates did not help Bolivians abroad but that they provided limited assistance which was inadequate to protect labour rights. That was why he wanted to see better coordination between consular services and the Ministry of Foreign Affairs and the conclusion of bilateral agreements with countries where there were large numbers of Bolivians.

11. Regarding the legal effects of the Convention, not all that instrument's provisions could be incorporated in domestic law. The problem was more that some administrative procedures contravened Bolivian law. For example, protection of migrant workers and their families was

hindered by the fact that the procedure for regularizing such workers took longer than the permitted time and applicants were charged high fees. It was therefore essential that the provisions of the law on the exercise of migrant workers' rights were respected.

12. Responding to Mr. El Jamri's question concerning the supreme decree, he said that the articles deemed unconstitutional were those which had been declared so by the Supreme Court and those which contravened other laws. It should not be forgotten that the fact that a high proportion of Bolivian citizens were illegally resident abroad was one of the country's main problems and that the activities of NGOs and the State in that regard were insufficiently coordinated. Bolivia had, however, undertaken to facilitate the regularization of the situation of its citizens living in Spain.

13. Ms. DIEGUEZ ARÉVALO, observing that the Bolivian authorities put the number of Bolivians living abroad at between 1.3 and 1.6 million and SIMN at 3 million, asked where SIMN had got its figure. It was surprising that so many people sent home only \$800,000 a year when, for example, the 1.2 million Guatemalans living in the United States of America repatriated over 3 billion dollars.

14. Mr. El JAMRI asked whether the delays in carrying out the procedure for regularizing migrants were excessive and how they affected migrants who remained in an irregular situation during them. He also wondered whether they were attributable to the intrinsic lengthiness of administrative procedures or to corruption.

15. Mr. EL-BORAI requested precise examples of the provisions of the Supreme Decree that were deemed unconstitutional so that he could determine whether they were compatible with the Convention.

16. Mr. CHIARELLO (Scalabrini International Migration Network) said that a lack of information was one of the obstacles to the proper application of the Convention. Gaining a precise idea of the scale of Bolivian migration was not easy because population censuses were conducted only every 10 years. The number of migrants could, of course, be assessed by other means, such as counting entries and exits at borders, but such methods had their limits. The figures he had given came from inquiries made by a New York statistical centre among a number of civil society organizations in the United States, Brazil and Spain. Civil society organizations close to migrants' associations also had relevant information. Since many Bolivian migrants were in an irregular situation, they were not included in official statistics, were not registered with consulates and did not appear in the databases of organizations that might produce statistics. That made it hard to form an accurate idea of their numbers.

17. With respect to the articles of the Supreme Decree that some people considered unconstitutional, the Bolivian Government had said that in its view they were constitutional. It had authorized the waiver of some articles of the text for reasons connected in particular with protection of the national labour market and State security. It was not the Supreme Decree itself that was deemed unconstitutional, but some of its articles that affected the protection of migrant workers' rights.

18. Mr. SEVIM said that, as the fact that a third of Bolivia's population lived abroad meant that there was a serious problem of family breakdown, he would like to know what programmes the

Government had instituted to promote family reunification and how NGOs helped Bolivians resident abroad..

19. Mr. CHIARELLO (Scalabrini International Migration Network) said that other countries, including Uruguay, were in the same situation as Bolivia regarding family breakdown. Nonetheless, it was essential that the Bolivian Government conclude bilateral agreements on family reunification with countries where there were large numbers of Bolivian workers such as Argentina, Brazil, the United States and Spain.

20. A number of civil society organizations, including some religious organizations, played an important role in the area of assistance by NGOs for Bolivian migrants. They had set up labour market insertion programmes, shelters and legal aid services to help migrants integrate into their host societies. They also did important coordination work with consulates, embassies, the Bolivian Government and welfare institutions in Bolivia. NGOs therefore played a vital role alongside the State in guaranteeing the application of the Convention.

The public part of the meeting rose at 4 p.m.
