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## I. SOCIO-ECONOMIC ASPECTS

### Macroeconomic indicators\*

Variable	Units	2002	2003
Population	Millions of inhabitants	8 824	9 025
Gross domestic product	Millions of dollars	7 812	7 767
Gross domestic product	Annual growth rate	2.8%	2.5%
GDP per capita	Dollars	885	861
Inflation	Cumulative change January-December	2.5%	3.9%
Devaluation	Cumulative change January-December	9.49%	4.56%
Exchange rate	Bolivianos per dollar	7.46	7.80
Worldwide exports	Millions of dollars	1 372	1 633
Worldwide imports	Millions of dollars	1 770	1 685
Exports to Andean Community	Millions of dollars	392	422
- Share of worldwide exports	Percentage	29%	26%
Net international reserves	Millions of dollars	854	976
External debt	Millions of dollars	4 300	5 041

\* Andean Community (<http://www.comunidadandica.org>), cited in information from the National Statistics Institute (INE).

1. The Republic of Bolivia, founded in 1825, lies at the geographical centre of South America. It has borders with Brazil to the north and east, with Paraguay to the south-east, with Argentina to the south, with Chile to the south-west and with Peru to the north-west. In the 1879 Pacific War Bolivia lost its seacoast, to which it has not renounced its claim; this remains a foreign policy priority. It covers an area of 1,098,581 square kilometres, and comprises three principal geographical zones: the altiplano, or high plateau, which comprises 16 per cent of the country's territory and has an average altitude of 3,500 metres above sea level; the valleys, which comprise 14 per cent, and are situated between 1,500 and 3,000 metres above sea level; and the plains and tropical forests region, which comprises 70 per cent of the country, at an average altitude of 500 metres.

2. According to the 2001 census, Bolivia has a population of 8,274,325, with 50.17 per cent female and 49.83 per cent male; 49.6 per cent of the population is under 18; 19.3 per cent under 6; 16.4 per cent between 7 and 12; and 13.9 per cent between 13 and 18.

3. The geographical and climatic diversity and wealth of resources in the country is also reflected in its culture, in that Bolivia possesses a significant indigenous population. According to data from the 2001 census, the following languages have the most native speakers: Spanish (62 per cent), Quechua (20 per cent) and Aymara (11 per cent). Other languages are spoken by the remainder of the population.
4. Between 1992 and 2001 the population grew at an average rate of 2.3 per cent, with variations by department. In La Paz, Oruro and Potosí population growth was below the national average, and in Santa Cruz and Tarija was higher than the national average.
5. There was increasing urbanization throughout the country, so that today almost two-thirds of the population (62 per cent) live in cities. The urban population is growing faster than the rural population.
6. This growth in cities, added to the failure of some cities, in particular the largest, to provide adequate living conditions for all their inhabitants, has led in recent years to an increase in such problems as marginalization, crime, violence, desertion and ill-treatment of children, drug addiction, prostitution and begging.
7. The most acute problem in the country is the spread and impact of poverty. It has been estimated that, out of a total population in 2003 of 9,024,922 (Latin American Demographic Centre (CELADE), 2003), 64.77 per cent lived below the poverty line.<sup>1</sup>
8. Poverty leads to a degradation in quality of life, and, as a result, in access to and enjoyment of basic human rights, including health, education and work (in 2003 the number of poor people increased by 145,000, of whom 109,000 fell into extreme poverty). This negatively affects society as a whole, creating problems such as inability to achieve individual fulfilment, loss of values, a fall-off in the level and quality of professionalism, leading to an increase in emigration in search of better opportunities,<sup>2</sup> drop out from school and university, corruption and other social problems.
9. There are significant differences between urban and rural areas. The results of the 2001 census showed that in urban areas poverty affects 39 per cent of the population, whereas in 1992 it affected 53 per cent. In rural areas, 91 per cent of the population live in poverty, compared with 95 per cent in 1992. Differences are also apparent in terms of deficiencies relating to housing, with an incidence of 15.6 per cent in urban areas compared with 75.7 per cent in rural areas. The difference is much more marked in terms of energy use (electricity and cooking fuel): 14.1 per cent of the urban population do not have adequate energy supplies, compared with 91.2 per cent in rural areas.
10. Similarly, it is estimated that in urban areas there is a 36.5 per cent shortfall in educational institutions and a 44.3 per cent shortfall in water and sanitation services, compared with a shortfall of 79 per cent in rural areas in terms of water, sanitation, energy and education.<sup>3</sup>
11. The last population and housing census recorded an illiteracy rate of 13.3 per cent among Bolivians aged 15 and over.

12. According to a Ministry of Education report, *Educación en Bolivia: Indicadores cifras y resultados* (Education in Bolivia: indicators, data and results), the percentage of absolute illiterates has fallen considerably over the past century, since 85 per cent of the population was completely illiterate in 1900, compared with 70 per cent in 1950, 37 per cent in 1976, 20 per cent in 1992, and 13.3 per cent today.

13. This improvement in the educational status of the population displays gender differences: illiteracy fell more quickly among women than among men. In 1992, 11 per cent of men were illiterate, compared with 27.7 per cent of women. In 2001 the male illiteracy rate fell to 6.94 per cent and the female illiteracy rate to 8.35 per cent.

### Human development indicators

Indicator	Value	Period
Human development index	0.648	2000
HDI ranking	104/162	2000
Incidence of poverty	64.27%	2002 (P)
Incidence: urban areas	53.52%	2002 (P)
Incidence: rural areas	82.07%	2002 (P)
Poverty gap	31.03%	2002 (P)
Poverty level	18.77%	2002 (P)
Incidence of extreme poverty	36.55%	2002 (P)
Life expectancy at birth	63 years	2001
Men	61 years	2001
Women	64 years	2001
Infant mortality rate	60 per 1 000 live births	2001
Maternal mortality rate	390 per 100 000 live births	1989-1994
Population with low birth rate	5.34%	2002 (P)
Incidence of diarrhoea (children under 5)	29.11%	2002 (P)
Respiratory infections (children under 5)	45.61%	2002 (P)
Malnutrition (children under 5)	8.12%	2000 (P)
High-risk pregnancies	15.59%	2000 (P)
Medical care at birth	62.78%	2000 (P)
Population without health coverage	21.90%	2000 (P)
Men	22.29%	2000 (P)
Women	21.59%	2000 (P)
Urban areas	20.43%	2000 (P)
Rural areas	25.10%	2000 (P)
Rate of illiteracy	12.66%	2001
Men	6.94%	2001
Women	19.35%	2001

### Urban employment indicators

Indicator	Value	Period
Not of working age	1 331 849	2002
Of working age	3 998 196	2002
Economically active population	2 320 060	2002
Employed population	2 118 436	2002
Unemployed population	201 624	2002
Retirees	162 890	2002
Job-seekers	38 734	2002
Economically inactive population	1 678 136	2002
Open unemployment rate	8.69%	2002
Equivalent unemployment rate	11.49%	November 2000
Net underutilization rate	18.89%	November 2000
Minimum wage	420 Bs (US\$ 60)	2002

*Source:* Data provided by the National Statistics Institute, Programme for the Improvement of Surveys and the Measurement of Living Conditions in Latin America and the Caribbean (MECOVI), Ministry of Finance, United Nations Development Programme (UNDP), Ministry of Education, Ministry of Health.

(P) Preliminary figures.

14. The improvement has varied by geographical area, by urban and rural area, and by region.
15. In rural areas 39.3 per cent of women received no education of any kind, compared with 15.7 per cent of men. In urban areas, 10.5 per cent of women and 3.2 per cent of men had no education whatsoever.
16. In response to the high level of illiteracy and with a view to providing free education for all Bolivians, the Education Reform Act of 7 July 1994 was promulgated, aimed at improving the effectiveness of and democratizing education services.
17. In general the state of health of the Bolivian population is still precarious, with marked inequalities, although the last 16 years have seen changes, with progress in such indicators as life expectancy and the mortality rate.
18. For the period 2000-2005, average life expectancy in Bolivia was calculated at 63.6 years, compared with 48 years for the period 1975-1980, and 59.3 years for the period 1990-1995.<sup>4</sup>
19. In September 2004 infant mortality in Bolivia stood at 54 per 1,000 live births.

20. The same indicator disaggregated by sex refers to the period from 1979 to 1989. Girls under one display a greater capacity for survival, with 86 deaths per 1,000. This advantage disappears between 1 and 4 years of age, when there are no differences in mortality in terms of sex. It is estimated that 57 per cent of children under 6 suffer from malnutrition. Only 33 per cent of the population under 10 have access to health-care services.
21. According to official indicators, 5.34 per cent of the population suffered from low birth weight in 2002.
22. Bolivia has one of the highest maternal mortality rates in Latin America, with 390 per 100,000 live births in the period 1989-1994.
23. In addition, it is estimated that there are 55 perinatal mortalities per 1,000 live births, or 21.726 mortalities a year. The fertility rate is 3.9 children per woman, the highest on the continent.
24. The 1970s were a period of economic growth and political stability under military regimes. Nevertheless, in the first half of the 1980s, structural changes occurred in the economy which degenerated into chaos and economic and social anarchy, an experience shared by all State-controlled Latin American economies with the advent of the external debt crisis.
25. Whereas the 1970s had seen an average growth rate of 4.7 per cent and an average inflation rate of 15.9 per cent, in the 1980s there was a sharp deterioration in these indicators in the case of Bolivia, with average growth of 2.3 per cent and an inflation rate of 1,969.4 per cent.
26. The reduced economic output had to be shared out among a larger population. In the 1970s value added per capita grew by an annual average of 1.2 per cent, 8.4 per cent and 3.4 per cent in the production, basic services and other services sectors, respectively. In the 1980s the trend in the production sector underwent a dramatic reversal, with value added per capita decreasing, on average, by 7.2 per cent per year. The services sector shrank, in common with the rest of the economy. For basic services the value added fell to an average annual rate of 1.4 per cent. Other services contracted to an average annual rate of 2.9 per cent.
27. These factors marked the beginning of the serious problems facing the economy, problems which became extremely acute in 1985. Foreign exchange earnings from exports fell by approximately 60 per cent between 1980 and 1985; at the same time foreign debt service payments increased as a result of the accumulation of obligations and high interest rates from 1980 onwards.
28. Beginning in 1985, with the promulgation of Supreme Decree No. 21060, Bolivia espoused an open free market economy. The Supreme Decree instituted a wage freeze and free hiring, along with free wage negotiations, measures which eroded all the labour gains made. In addition, a flexible, market-based exchange rate was established, as were price structures intended to bolster the earnings of State companies, an increase in fuel prices, and a single tariff on the importation of goods.

29. Under this model, first-generation reforms were implemented aimed at economic liberalization, that is, opening up of markets, transfer of State enterprises to the private sector, and financial reform, with closure of the State Bank, the Mining Bank and the Agricultural Bank.

30. While Supreme Decree No. 21060 attained one of its principal objectives, control of hyperinflation, after 18 years of market economics Bolivia is still in the throes of a serious economic crisis, with high poverty and marginalization indices.

31. In 1985 external debt stood at US\$ 3.2 billion. A Central Bank report stated that in December 2002 external indebtedness stood at US\$ 4,299.7 million, with an increase to US\$ 4,424.3 million by April 2003.

32. These levels of indebtedness reflect consolidation following the remission of US\$ 1.2 billion pursuant to agreements on debt relief for highly indebted poor countries (one being the HIPC II programme). To April 2003, debt relief, in the context of HIPC II, totalled \$15.5 million reflecting an average annual commitment by the international community of \$90 million. These resources are to be allocated to poverty alleviation.

33. In 2003 the Bolivian economy maintained a moderate growth rate, bringing about a relative improvement in the living conditions of the Bolivian people. Gross domestic product (GDP) grew at a rate of 1.51 per cent in the period 2000-2001, 2.75 per cent in 2001-2002, and 2.27 per cent in the period January-September 2003.

34. Inflation stood at 2.45 per cent in 2002 and 3.94 per cent in 2003. Per capita gross domestic product grew for the seventh consecutive year by 1.1 per cent, as did internal savings and net international reserves. While per capita income remained one of the lowest in the region, in 2002 it increased to \$883.

35. The fiscal deficit continues to give cause for concern. To July 2004 it remained at 6.1 per cent, and is expected to decline to 5.5 per cent in 2005.<sup>5</sup> The persistent imbalance in the balance of payments and a reluctance to lower interest rates are impeding greater access to credit and discouraging investment.

36. With regard to unemployment, official indicators show an unemployment rate of 8.69 per cent in 2002 and 11.49 per cent in November 2000. However, measuring unemployment by means of open unemployment rates does not fully indicate the nature of employment in the country: on the basis of visible underemployment, that is, those in employment but working less than 46 hours a week, and invisible underemployment in terms of income, that is, that percentage of employed persons receiving an income which is not enough to meet basic household needs, there was an average underemployment rate of 32.7 per cent in November 2001.

## **II. HISTORICAL BACKGROUND**

37. The history of the territory which today makes up the Republic of Bolivia goes back to the ancient cultures which developed on the high plateau, such as the Viscachense, Churupa and Urus, and, especially, the Tihuanacota culture, which developed into the first Andean empire and built the region's first planned city: Tihuanaco.



38. Other ethnic groups with their own characteristics also form part of the country's historical and cultural background. These include, in the valleys, the Jarupara or Ampara and the Mojoyocas and, in the eastern region, the Churiguano, Guarayos, Moxenos, Movimas, Itenez and Mosetenes.
39. During the development of the Inca empire, the area corresponding to Bolivia became known as Collasuyo, being predominantly occupied by Aymaran settlements.
40. The arrival of the Spanish conquistadores in 1532 destroyed the organization which had prevailed in the region for centuries and introduced a new political institutional structure based on the exploitation of its rich mineral resources, mainly silver. In pursuit of their goals the conquistadores organized the territory and founded cities with clearly defined functions in areas of strategic interest to them. It is important to note that from that time on the indigenous, aboriginal peoples began to play a secondary role, as providers of labour under conditions of semi-slavery, a situation that prevailed until the beginning of the twentieth century.
41. Thus, starting in 1538, the following cities were founded in succession: La Plata, today's Sucre (1538), as the political and administrative centre of the royal Audiencia of Charcas; Potosí (1545), based on the exploitation of the silver deposits of Cerro Rico; La Paz (1548), as a busy commercial and trading centre; Santa Cruz (1561) and Trinidad (1686), as barriers to Portuguese expansionism and to control the eastern zone; Cochabamba (1574), as a centre for the harvesting and supply of agricultural produce; Tarija (1574), as a link with the Río de la Plata; and Oruro (1600), to develop the mining potential of the area.
42. Some of these cities were the scene of events of great importance, both local and continental: Potosí, which at its peak had a bigger population than any other city in the world; Sucre, with the founding of San Francisco Xavier University, one of the first universities on the continent, in whose faculties the idea of rebellion took shape and where, during the last quarter of the eighteenth century, the environment developed in which the first cry of freedom to be heard in the Spanish colonies was raised on 25 May 1810; and La Paz, where on 16 July 1810 there began the revolutionary process which culminated in the breaking away of the countries of the region from the Spanish Crown.
43. The bloody war of independence lasted 15 years, and at its end Bolivia was born on 6 August 1825 as a unitary, free, independent and sovereign republic presided over by the liberator, Simón Bolívar.
44. The first Bolivian Constitution and those which followed were profoundly influenced by the model and the ideas of the French Revolution. The criminal and civil codes adopted by the new republic, although the first in Latin America, were faithful copies of French legislation and French political and administrative organization.
45. In the republican epoch the colonial model of exploitation of the silver and, later, tin deposits continued, with the development of a predominantly mining economy in the form of holdings and large estates in rural areas, intensive use being made of semi-slave labour since the social divisions between the Spanish owners ("*criollos*"), half-breeds ("*cholos*" or "*mestizos*"), native craftsmen, agricultural labourers and miners remained more or less intact. The region

continued to play the role of producer and exporter of non-renewable resources, inherited from the colonial period, until the beginning of the 1950s, when the national revolution triggered a vigorous effort to diversify the country's social and economic structure.

46. In the course of its existence, the Republic of Bolivia has experienced three large-scale international wars and other territorial conflicts which led to its being stripped of more than half its territory and reduced to a landlocked condition following the loss of sovereignty over its Pacific coast. In 1879, Chile invaded its territory during the Pacific War against Peru and Bolivia, depriving the country of its coastal areas; in 1903 it lost extensive Amazonian territories to Brazil in the Acre War, and finally, between 1932 and 1935 it surrendered the northern Chaco to Paraguay during the Chaco War, the bloodiest in the history of the continent.

47. Between the Pacific War (1879) and the Chaco War (1932-1935) Bolivia experienced a period of relative institutional stability, except for the civil war between liberals and conservatives in 1899. For almost 50 years, one democratic government succeeded another and the country prospered. This system broke down during the Chaco War and post-war period, which saw a confrontation between the working classes and the feudal-mining upper middle class rulers of the country.

48. In 1952, there began the national revolution under the leadership of Víctor Paz Estenssoro. This led to drastic institutional and economic changes in the life of the republic, including the passage of the Agrarian Reform Act, which abolished the large estates and redistributed the land among the landless majority; the nationalization of the mines, until then in the hands of the big multinationals; the granting of universal suffrage, which made citizens of women and of the indigenous masses; the first education reform and universalization of education; and the introduction of a State-run economic model aimed at diversifying the mining economy.

49. In 1964 a military coup overthrew the Government of the Movimiento Nacionalista Revolucionario under Paz Estenssoro, establishing a new regime of dictatorships - such as that of General Banzer (1971-1978), and lasting until General García Meza (1980-1981) - which systematically violated human rights.

50. In 1982, following various failed attempts to preserve a military government, democracy was restored in Bolivia and has continued to this day.

51. Over this 22-year period seven constitutional governments have held power. The last assumed power in August 2002, under Sánchez de Lozada. So as to be able to govern in Congress, he concluded an agreement with three traditional political parties (Movimiento de Izquierda Revolucionaria, Nueva Fuerza Republicana and the Unión Cívica Solidaridad).

52. In February 2003 the new President announced a series of unpopular economic measures (including a new income tax), which led to protests throughout the country. Sánchez de Lozada withdrew the proposed measures, but the serious economic crisis engendered, which saw violent incidents and clashes between the National Police and the army, led to the resignation of various members of his ministerial cabinet.

53. In September and October 2003 new demonstrations took place, at the instigation of the Bolivian Workers' Confederation (COB) and the United Trade Union Confederation of Agricultural Workers of Bolivia, which called for a general indefinite stoppage against government economic policy and the export of natural gas to Chile, and also for the inauguration of a constituent assembly and a binding referendum on gas.

54. The unrest spread to the county's major cities (La Paz and El Alto were even put under military occupation by the Government), where the climate of confrontation was virtually unbearable. As a result of these events more than 50 people died, and some 500 civilians were wounded.

55. Gonzalo Sánchez de Lozada resigned and left the country on 17 October, and was succeeded in accordance with the constitution by Vice-President Carlos Mesa, who formed a cabinet of individuals without political affiliations with the aim of ending the conflict and bringing about national reconciliation. Shortly after his investiture, in July 2004 Mesa called a referendum, in which Bolivians stated their views directly on hydrocarbons policy for the exploitation, exportation, use and disposal of natural gas.

56. Under President Mesa's short Administration a constitutional reform was carried out, involving the Constituent Assembly, the referendum (on the basis of the results of which a new hydrocarbons act is being debated in Congress), the Citizens' Legislative Initiative, habeas data, and direct participation by indigenous and citizens organizations in candidacies for municipal legislatures and councils.

57. The President also approved a supreme decree establishing the Inter-Ministerial Human Rights Commission and the Inter-Agency Human Rights Council with a view to adopting for the first time a short- medium- and long-term public policy on human rights, with broad and active participation by civil society.

58. To ensure access to the system of justice, integrated justice centres have been established in densely populated areas with high levels of poverty, such as the cities of El Alto, Chimoré in Chapa de Cochabamba and los Yungas. In this connection and within his legal authority, the President appointed on an interim basis a new Attorney-General, district prosecutors and members of the Judicature Council and judiciary, posts that had remained vacant for almost 10 years.

59. Other actions included restructuring the Presidential Anti-Corruption Office, which heads up anti-corruption measures to combat corruption of State structures and society; the monopoly of party representation was abolished with the approval of a special act permitting broad and active participation by indigenous populations and other groups in society in municipal and general elections.

60. In October 2004 Congress approved censure proceedings against former President Sánchez de Lozada and his cabinet for violations of human rights established under the Constitution, as a result of which in October 2003 some 60 people died and over 200 were injured.

### **III. POLITICAL STRUCTURE**

61. Article 1 of the Constitution provides that Bolivia is a country which is “free, independent, sovereign, multi-ethnic and multicultural, constituted as a unitary republic, [which] adopts for its government representative democracy, founded on the union and solidarity of all Bolivians”.

62. Article 2 of the Constitution establishes the legal structure of the country, providing that: “Sovereignty resides in the people; it is inalienable and imprescriptible; its exercise is delegated to the legislature, executive and judiciary. The independence and coordination of these authorities form the basis of government. The functions of government: legislature, executive and judiciary, may not be combined in a single organ”.

63. However, the 1994 Constitutional provisions failed to accommodate reality, as a result of which social movements called for specific action by the State to ensure full participation by society in government decisions. These demands led to the most recent amendment to the Constitution, promulgated under Act No. 2650 of 13 April 2004, which, among other changes, recognizes the Constituent Assembly and the referendum as legitimate forms of citizen consultation. It also provides for participation on an equal basis under the law by indigenous peoples and citizens’ organizations in candidatures in elections.

#### **A. Legislature**

64. Article 46 of the Constitution states: “I. Legislative authority lies with the National Congress sitting in two chambers: a chamber of deputies and a chamber of senators. II. The National Congress shall meet in ordinary session every year in the capital of the republic on the sixth day of August, even if it has not been convened. The sessions shall last ninety working days, and may be extended to one hundred and twenty days, either by decision of Congress itself or at the request of the executive. If at any time the executive deems it expedient for Congress not to meet in the capital of the republic, it may convene it elsewhere”.

65. This particular provision requiring Congress to meet every year at a fixed time and place, without having to be convened, is intended to ensure its functional independence and freedom from any form of interference by other authorities.

66. Article 48 stipulates that the chambers must function with an absolute majority of their members, at the same time and in the same place, and one chamber may not open or close its sessions on a different day from the other. This simultaneity of sessions is intended to ensure the coordination and efficiency of the work of Parliament, which might otherwise be impaired or delayed.

67. Sessions of Congress may be either ordinary or extraordinary. Ordinary sessions are fixed; such sessions start on 6 August and last 90 working days, extendable to 120 days either by decision of Congress itself or at the request of the executive.

68. Article 59 assigns to Congress the following powers:

(a) Legislative. Pursuant to paragraph 1, Congress may “enact, repeal, amend or interpret laws” (arts. 29, 71 and 96.4). This is a fundamental function of the legislators, and may originate in either chamber, at the initiative of one or more of its members; the executive and the Supreme Court may also initiate the enactment of laws, but not their repeal, derogation, amendment or interpretation, which remain the exclusive prerogative of the legislature;

(b) Economic and financial. Paragraph 2 empowers the legislature, at the initiative of the executive, to impose taxes of any nature or description, abolish existing taxes and determine their national departmental or university sector application, as well as to fix fiscal expenditures;

(c) Political and administrative. In this area, the Constitution authorizes the legislature (at the initiative of the executive) to create and abolish public offices while specifying their powers and fixing their emoluments. The legislature may approve, reject or reduce the services, offices or emoluments proposed by the executive but, with the exception of those relating to the National Congress, may not increase them;

(d) International policy. Under the Constitution, the executive is responsible for conducting and implementing the country's international policy, but since treaties and agreements concluded with other States concern the entire nation, the legislature must ratify them;

(e) Military. With regard to military matters, the legislature approves the military forces to be maintained in time of peace, gives permission for the transit of foreign troops across national territory, determines how long they may remain therein, and authorizes the dispatch of national troops abroad for a specified period (paras. 14-16);

(f) University. Notwithstanding the fact that the autonomy of the universities consists in freedom to administer their own funds, to prepare and approve their budgets and to enter into contracts to achieve their purposes, they may negotiate loans only with prior legislative approval;

(g) Judicial. Article 59.19 authorizes the legislature “to decree amnesties for political offences and grant pardons after receiving a report from the Supreme Court of Justice”. This power is independent of that granted to the President for the same purpose by article 96.13.

69. In order to represent the people, deputies and senators must satisfy the terms and conditions common to both chambers established by the Constitution.

70. Candidates for the office of deputy or senator must be nominated by a political party or by a civic or indigenous association having recognized legal personality and fulfilling certain other conditions.

71. National representatives may accept only the offices of President or Vice-President of the Republic (if so elected), minister of state, diplomatic agent or prefect of a department, and are suspended from their legislative functions while they continue to hold such office (art. 49).

72. Under article 67.4, each chamber may “remove temporarily or definitively, by a two-thirds vote, any of its members for misconduct in the exercise of their functions”. This is a disciplinary power intended to safeguard the dignity of Congress and representation of the people but, so that it may not be abused for political or other secondary purposes, as has so often been the case in the course of our parliamentary history, a two-thirds vote is required.

73. Personal inviolability and immunity under the Constitution are not suspended during a state of siege (art. 115). Article 53 grants the Vice-President of the Republic, in his capacity as ex-officio President of the National Congress and the Senate, the same prerogatives as are granted to senators and deputies. Pursuant to article 55, legislators may make representations to the executive to secure compliance with the law and the satisfaction of the needs of their districts. They may also request ministers of State to provide oral or written information for legislative purposes or for purposes of inspection or oversight and “may propose the investigation of any matter of national interest” (article 70, second paragraph). Clearly, the legislature has very broad power to obtain information and investigate the actions of the executive, giving it unlimited authority to watch over every facet of national life.

74. Interpellation is a parliamentary process in which, through a public debate in either chamber, members of the executive are called upon to correct their conduct in relation to specific matters and may be censured by a vote of an absolute majority of the members present (article 70, first paragraph).

75. The recently reformulated article 70 states that at the initiative of any member of parliament, the chambers may request the ministers of State for oral or written information for legislative purposes or purposes of inspection or oversight, and propose investigation of matters of national interest.

76. The purpose of censure is to obtain changes in the policy or procedure to which objections are raised and implies the resignation of the minister or ministers censured, which may be accepted or rejected by the President of the Republic.

77. When a bill approved by one of the chambers (chamber of origin) is not approved by the other, in accordance with legislative procedure (art. 74), the two chambers must meet in joint session to explain their points of view and try to reconcile their differences in order that the bill may be carried forward if it so merits (para. 9).

78. Under article 68, paragraph 11, Congress may authorize the trial of the President and Vice-President of the Republic, ministers of state and prefects of departments, pursuant to article 18 of the Basic Act of the Republic, a procedure applied in the censure proceedings against Sánchez de Lozada.

79. The Constitution assigns new functions to the Congress empowering it to elect, by a two-thirds vote of all its members, the justices of the Supreme Court of Justice, the judges of the Constitutional Court, the counsellors of the Judicature Council, the Attorney-General and the Ombudsman. The latter constitutes one of the most important achievements of Bolivian democracy in its efforts to depoliticize institutions and restore their credibility.

80. The functions, number and method of election of deputies has been radically revised in article 60 of the Constitution, which reads: “The Chamber of Deputies is composed of one hundred and thirty members. In each department, half the deputies shall be elected in uninominal constituencies, the other half in plurinominal constituencies from lists headed by the candidates for President, Vice-President and senators of the Republic.”

81. Deputies are elected by universal, direct and secret ballot, in the uninominal constituencies by a simple majority of votes and in the plurinominal constituencies in accordance with the system of representation established by law.

82. The legislature must take the initiative in connection with functions 3, 4, 5 and 14 established in article 59, i.e. in fixing the expenditures of the public administration for each financial period, examining the development plans which the executive submits to the legislature for its consideration, and authorizing and approving the contracting of loans and contracts relating to the exploitation of national resources.

83. Legislative committees are made up of deputies and senators in each chamber; the number of members varies according to the nature of the task.

84. In recent legislatures, the Human Rights Commission of the Chamber of Deputies, in particular, has acquired a reputation for its crucially important investigations and defence of civil rights.

## **B. Executive**

85. The executive is constituted in accordance with the Executive Organization Act of 15 September 2004, which provides that the business of the Government is to be dispatched by ministers of State.

86. Ministers of State are responsible, jointly with the President of the Republic, for acts of administration within the area of functional competence assigned to them under the Act, and are jointly and severally responsible for the measures taken by the President with the agreement of the Cabinet Council.

87. The President of the Republic convenes and presides over the Cabinet Council, which is composed of all the ministers of State.

88. The functions of the ministers are regulated by the Executive Organization Act.

### **General framework for the protection of human rights**

89. Following the events of February 2003, there was a reorganization of the executive; the Ministry of Justice and Human Rights was wound up, and became the current Department of Justice, under the Presidential Ministry.

90. The Department of Justice has the following functions:

(a) To formulate policies, norms, regulations and directives to promote development of the Bolivian system of justice;

(b) By express delegation of the Minister, to administer the national public defence programme;

(c) To formulate policies, norms, regulations and directives on human rights, ensuring that they are observed;

(d) To monitor the development of human rights on the international agenda, promote the observance of human rights in Bolivia, and coordinate foreign policy activities in this domain;

(e) To coordinate relationships, cooperation and support from the executive for the judiciary and Public Prosecutor's Office;

(f) To promote the dissemination of legislation so as to improve the administration of justice;

(g) To formulate policies and conduct activities for the systematization and updating of national legislation;

(h) To conduct follow-up and dissemination of the normative development of law in the international domain;

(i) To promote and authorize private publication of national legislation.

91. In this connection it should be noted that the authority of the executive for human rights has been delegated to this department, which includes a human rights office.

92. Similarly, the Department of Justice, pursuant to Supreme Decree No. 27420 of 27 February 2004, acts as the technical secretariat for the Inter-Agency Council (State and civil society) and the Inter-Ministerial Human Rights Commission.

### **Municipal electoral system**

93. Councillors are elected by universal, direct and secret ballot for a period of five years in accordance with the proportional representation system established by law. Municipal officers are similarly elected, by a simple majority of votes.

94. Those at the top of the lists of councillors submitted by the parties are candidates for mayor. The mayor is elected by an absolute majority of valid votes.

95. If no candidate for mayor obtains a majority, the council takes the two having the biggest number of valid votes, and elects one of them by an absolute majority of valid votes cast by all the members of the council, on a roll-call vote. In the event of a tie, the voting is repeated.



### **National electoral system**

96. The President, Vice-President, deputies and senators are directly elected by the electorate. Under the new constitutional provisions, the term of office of the President of the Republic is five years without extension. The President may be re-elected once only, after at least one constitutional term has elapsed.

97. The term of office of the Vice-President is also five years without extension. The Vice-President cannot be elected President or Vice-President in the term following that in which he held office. If in the general elections none of the candidates for the presidency or vice-presidency obtains an absolute majority of valid votes, Congress shall choose, by an absolute majority of valid votes, in a roll-call ballot, between the two candidates who received the most valid votes.

98. The Vice-President will assume the presidency of the Republic if that office becomes vacant before or after the proclamation of the President-elect and hold it until the end of the constitutional term.

99. In default of the Vice-President, the President of the Senate acts in his stead, and in default of the latter, the President of the Chamber of Deputies and the President of the Supreme Court of Justice, in strict order of priority. In this latter case, if three years of the presidential term have not yet elapsed, a new election for President and Vice-President must be held, solely to complete the term.

### **C. Judiciary**

100. The Constitutional Reform Act No. 1585 practically recreated the Bolivian judiciary. This was a great national achievement considering how it had been stigmatized for its ineffectiveness, social insensitivity and corruption. The Reform Act introduced the Constitutional Court and the Judicature Council in an attempt to make the administration of justice transparent again.

101. The most important reforms are as follows: “Judicial authority is exercised by the Supreme Court of Justice, the Constitutional Court, the higher district courts, the trial courts and judges, and any other courts or tribunals that may be established by law. The law determines the organization and powers of the courts and tribunals of the Republic. The Judicature Council forms part of the judiciary. No courts or tribunals of special jurisdiction may be established.”

102. The power to adjudicate in ordinary, contentious and administrative proceedings and to have the decisions enforced is vested in the Supreme Court and the respective courts and judges. In accordance with the principle of jurisdictional unity, constitutionality oversight is the responsibility of the Constitutional Court. The Judicature Council is the administrative and disciplinary body of the judiciary.

103. Magistrates and judges are independent in the administration of justice and are subject only to the Constitution and the law. They may not be removed except by final judicial decision. The law establishes the judicial roster and the conditions of permanency for ministers, magistrates, councillors and judges. The judiciary has financial and administrative autonomy.

104. The general national budget assigns an annual amount, under the Judicial Treasury budget which falls under the Judicature Council. The judiciary has no authority to introduce or establish judicial charges or fees.

105. It is essential that the administration of justice be free, public and swift and the decisions honest. The judiciary is responsible for providing free legal defence for the poor, and interpretation for non-Spanish-speaking defendants.

### **Supreme Court of Justice**

106. The Supreme Court is the Republic's highest court of general, contentious and administrative justice. It sits in the city of Sucre. It consists of 12 justices organized in specialized divisions.

107. Their principal powers are as follows: to rule on applications for annulment and judicial review in the ordinary and administrative jurisdiction; to settle conflicts of jurisdiction which arise between higher district courts; to rule in censure proceedings against the President and Vice-President of the Republic, ministers of State and prefects of departments for offences committed in the exercise of their functions, at the request of the Attorney-General, subject to the legally substantiated authorization of Congress, granted by a two-thirds vote of all its members, in which case the pre-trial proceedings will be the responsibility of the Criminal Division, and if the latter rules in favour of indictment, the case will be tried by the other divisions, without subsequent appeal.

### **Constitutional Court**

108. The Constitutional Court is independent and subordinate only to the Constitution. It sits in the city of Sucre. It is constituted by six judges who form a single division and are appointed by Congress, by a two-thirds vote of the members present.

109. The Constitutional Court is empowered to take cognizance of and decide:

(a) In sole instance, questions of pure law concerning the unconstitutionality of laws, decrees and non-judicial orders of any kind. If the action is abstract and remedial, it may be brought only by the President of the Republic, a senator or deputy, the Attorney-General or the Ombudsman;

(b) Conflicts of jurisdiction and disputes between the public authorities, the National Electoral Court, departments and municipalities;

(c) Challenges by the executive against decisions of the chambers, prefects and municipalities.

110. There is no further appeal against the decisions of the Constitutional Court. A decision which declares a law, decree or any other kind of non-judicial order unconstitutional makes it inapplicable and has full effect for all. A decision which relates to a disputed subjective right

will be restricted to a declaration of its inapplicability in the case in question. Unless the decision otherwise provides, the parts of the law, decree or other order not tainted by unconstitutionality remain in effect. A ruling of unconstitutionality does not affect previous rulings, which are considered *res judicata*.

### **Judicature Council**

111. The Judicature Council is the judiciary's administrative and disciplinary body. It sits in the city of Sucre. The counsellors are appointed by Congress, by a two-thirds vote of the members present. They hold office for a 10-year term and may not be re-elected until after the expiration of a period equal to their period of service.

112. The Judicature Council has the following powers:

(a) To propose to Congress lists for the appointment of justices of the Supreme Court, and to the latter lists for the appointment of magistrates of the higher district courts;

(b) To propose to higher district courts lists for the appointment of judges, notaries and property rights registrars;

(c) To administer the judicial roster and exercise disciplinary authority over magistrates, judges and court officials, in accordance with the law.

### **Other jurisdictions recognized by law**

113. The executive performs certain jurisdictional functions, other than those reserved to the judiciary, which derive from its own administrative activity. These jurisdictional functions, though governed by special laws and not by the Constitution, are related to regimes dealt with in the latter, such as those applicable to the armed forces, agricultural labourers, labour and the national finances. Moreover, they fall under the authority of the executive, which is responsible for public administration, and are therefore a matter of public order, like the administration of justice.

114. Military jurisdiction. Article 9 of the Military Judicial Organization Act of 22 January 1976 states that military jurisdiction is "the power granted by the law to the military judicial authorities and military courts to administer justice in criminal cases for offences defined in the Military Criminal Code or brought before them under special laws".

115. As regards place, "military courts exercise jurisdiction over offences committed in service, or in connection therewith, in barracks, camps, forts, on marches, in columns, in vehicles, buildings, stores, farms, offices, outbuildings, workshops, foundries, armouries, depots, arsenals and military institutions, on board naval vessels, in naval and air bases, on aircraft belonging to the air force and in other similar places".

116. The authorities competent to order the trying of these offences are: the Ministry of Defence, the Commander-in-Chief of the Armed Forces, force commanders, the Inspector General and the commanders of major units. The relevant courts are: the Permanent

Court of Military Justice and the Supreme Court of Military Justice. Both have national jurisdiction. The former hears and decides cases in first instance, while the latter has an appeals and review division and an annulment division and decides in sole instance.

117. Concerning offences against the security of the State, article 114 of the Criminal Code states:

“Anyone who, without the knowledge or influence of the Government, commits a hostile act against any foreign Power, with the result that Bolivian nationals abroad are exposed to harassment or reprisals or diplomatic relations are broken off, shall be punished by from two to four years’ deprivation of liberty.”

### **Agrarian judicature**

118. This jurisdiction was established under the National Agrarian Reform Institute Act of 18 October 1996, amending the Agrarian Reform Act (No. 3464) of 2 August 1953. The purpose of the Act was to establish the organizational structure and functions of the National Agrarian Reform Institute (INRA) and the land distribution regime; to guarantee the right to ownership of land; to establish the Office of Agrarian Affairs, the agrarian judicature and its procedures, and to regulate agrarian land reform; it recognizes and guarantees private ownership of agricultural lands by natural and legal persons.

## **IV. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS**

119. Titles I and IV of the Constitution establish rights, duties and constitutional guarantees. These are not to be interpreted as a denial of other, unspecified rights and guarantees springing from the sovereignty of the people and the republican form of government.

120. Act No. 1818 on the Ombudsman of 22 December 1997, Act No. 1836 on the Constitutional Tribunal of 1 April 1998, Act No. 2175 on the Public Prosecutor’s Office of 6 February 2001 and Act No. 1704 of 2 August 1996 amending the Electoral Act are other important legal instruments for the protection and guarantee of human rights.

121. The Ombudsman. The Ombudsman’s principal task is to ensure that personal rights and guarantees are effective and respected over the entire range of administrative activity of the public sector. He is also responsible for protecting, promoting and disseminating information on human rights.

122. The Ombudsman does not receive instructions from the authorities. He is elected by the National Congress, by a two-thirds vote of the members present. He may not be indicted, prosecuted or detained for exercising his functions, except where an offence has been committed.

123. The Ombudsman is empowered to institute proceedings for unconstitutionality, direct annulment, *amparo* and habeas corpus, without the need for authorization. In the performance of his duties, the Ombudsman has free access to detention centres, prisons and other places of confinement.

124. Public authorities and officials must provide the Ombudsman with such information as he may request in connection with the performance of his duties. If his request does not meet with a satisfactory response, the Ombudsman must bring the matter to the attention of the legislative chambers.

125. Reference should also be made to the Constitutional Court and to the Judicature Council, whose principal functions are described in paragraphs 108 to 112 above.

126. Public Prosecutor's Office. The role of the Public Prosecutor's Office is to promote the dispensation of justice and defend legality and the interests of the State and society, in accordance with the Constitution and the laws of the Republic. The Public Prosecutor's Office represents the State and society in legal matters. Its functions are performed by committees appointed by the legislative chambers, by the Attorney-General and by other officials designated by law.

127. The Attorney-General has a non-renewable 10-year term of office. He may be re-elected following the expiration of a period equal to that during which he held office. He may not be removed from office except by virtue of a sentence of conviction, after being indicted by the Chamber of Deputies and tried in sole instance in the Chamber of Senators. At the time of indictment, the Chamber of Deputies shall suspend the accused from his duties.

#### **A. National strategy for the promotion and protection of human rights**

128. On 26 March 2004 Supreme Decree No. 27420 was approved establishing the Inter-Agency Council and Inter-Ministerial Human Rights Commission as technical bodies for consultation and coordination in the formulation, implementation, monitoring and evaluation of the national strategy for the promotion and protection of human rights, from which all Bolivians, including indigenous and aboriginal peoples, will benefit.

129. The Decree is implemented through the Inter-Agency Council, comprising four ministers, and a representative of the human rights community (civil society).

130. The Inter-Agency Council monitors implementation of the international human rights norms ratified by Bolivia, together with guidelines, principles and minimum standards pursuant to resolutions of specialized human rights bodies. The Council proposes machinery for the implementation of judgements, decisions and recommendations by international human rights bodies; it implements the international agenda on human rights commitments.

131. In addition there is the Inter-Ministerial Human Rights Commission, comprising all the deputy ministers in the executive.

132. The function of this body is to prepare reports for the various United Nations committees, the Inter-American Commission on Human Rights, and other international bodies operating in this field.

133. The work of the Inter-Agency Council and the Inter-Ministerial Commission is coordinated by a technical secretariat under the Department of Justice.

134. The Presidential Ministry, through the Departments of Justice and Government Coordination with Civil Society, is responsible for monitoring formulation and implementation of the human rights strategy. To this end all State institutions have an obligation to provide all the information requested by the Inter-Agency Council for the formulation and implementation of the national human rights strategy.

135. In the preparation of reports to the various United Nations committees, the Inter-American Commission on Human Rights and other specialized human rights bodies, civil society, through the actors involved, may make observations on the reports to be submitted under each international instrument, to be incorporated in the State party's report.

136. Should these observations by civil society not be included in the State party report, it is possible to submit an alternative report, as established under international human rights law.

## **V. DISSEMINATION OF INFORMATION**

137. The dissemination of the international agreements ratified by the Bolivian State is extremely important and is one of the functions of the Office of the President. In this connection, these functions include publication of all the agreements and laws of the Republic (including human rights norms) in the Official Gazette.

138. Similarly, information on human rights norms is available on the Internet, at [www.communica.gov.bo](http://www.communica.gov.bo), which has links to all three branches of the State.

139. Lastly, one of the tasks of the government body responsible for the promotion and protection of human rights, the Department of Justice, is to publish human rights norms.

140. Attention is drawn to other legislation relating to the promotion and defence of human rights adopted over the past 15 years and published in the Official Gazette:

- (a) Act No. 1970 of 25 March 1999 on the Code of Criminal Procedure;
- (b) The Act of 4 August 2003 on the establishment of the National Public Defence Service;
- (c) Act No. 2298 of 20 December 2001 on the execution of sentences and the penitentiary system;
- (d) Act No. 2175 of 6 February 2001 on the Public Prosecutor's Office;
- (e) The Minors' Code (Act of 18 December 1992);
- (f) The Judicial Organization Act (Act No. 1455 of 18 February 1993);

- (g) The Environment Act (Act No. 1333 of 27 April 1992);
- (h) Special rights for indigenous peoples (Supreme Decrees Nos. 22609, 22610, 22611 and 22612);
- (i) People's Participation Act (Act of 20 April 1994);
- (j) Education Reform Act (Act of 7 July 1994).

#### **Notes**

<sup>1</sup> Social and Economic Policy Analysis Unit (UDAPE), 2004.

<sup>2</sup> In 2004 UDAPE estimated that 10,000 people annually emigrate to Argentina, Brazil, the United States of America and Spain, there being a total of approximately 2 million emigrants. However, in the first half of 2004 over 9,000 people emigrated to Brazil, an indication that the situation is worsening.

<sup>3</sup> 2001 census, National Statistics Institute.

<sup>4</sup> Epidemiological bulletin prepared by the Ministry of Health and the Pan-American Health Organization (PAHO), to June 2002.

<sup>5</sup> Ministry of Finance report, August 2004.

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