



REFERENCE:KF/fup-119

18 de abril de 2017

Excelencia:

En mi calidad de Relator Especial para el Seguimiento de las Observaciones Finales del Comité de Derechos Humanos, tengo el honor de referirme al seguimiento de las recomendaciones contenidas en los párrafos 12, 13 y 14 de las observaciones finales sobre el informe periódico del Estado Plurinacional de Bolivia (CCPR/C/BOL/CO/3), aprobadas durante el 109º período de sesiones del Comité, en octubre-noviembre de 2013.

Durante el 114º período de sesiones que tuvo lugar en julio de 2015, el Comité evaluó la respuesta del Estado parte y solicitó información adicional sobre aplicación de las recomendaciones seleccionadas para el procedimiento de seguimiento.

El 29 de septiembre de 2015, el Comité recibió la respuesta de seguimiento del Estado parte. Durante el 117º período de sesiones, en julio de 2016, el Comité evaluó esa información.

El Comité consideró que las recomendaciones seleccionadas para el procedimiento de seguimiento no han sido plenamente aplicadas y decidió solicitar información adicional acerca de su aplicación. La evaluación del Comité y la información adicional solicitada al Estado parte están reflejadas en el Informe de seguimiento de las observaciones finales (CCPR/C/117/2). Por medio de la presente se adjunta, para facilitar su consulta, una copia de la sección pertinente del mencionado informe (versión avanzada no editada).

Durante su 119º período de sesiones, que tuvo lugar en marzo de 2017, el Comité observó que la información solicitada aún no había sido presentada y decidió enviar un recordatorio al Estado parte. El Comité agradecería recibir la información referida con anterioridad al **18 de julio de 2017**.

Se solicita al Estado parte que, cuando presente su respuesta, tenga a bien no reiterar la información previamente proporcionada al Comité.

La información solicitada tendrá que ser remitida en versión electrónica de Microsoft Word a la Secretaría del Comité de Derechos Humanos (Kate Fox: kfox@ohchr.org y ccpr@ohchr.org). De conformidad con la Nota del Comité de Derechos Humanos sobre el procedimiento de seguimiento de las observaciones finales (véase CCPR/C/108/2), el informe de seguimiento no deberá superar las 3.500 palabras.

El Comité confía en poder continuar su diálogo constructivo con el Estado parte sobre la aplicación del Pacto.

S.E. Sra. Nardi Suxo Iturry
Embajadora
Representante Permanente
Email: contact@mission-bolivia.ch

Acepte, Excelencia, la expresión de mi más distinguida consideración.



Mauro Politi
Relator Especial para el Seguimiento de las Observaciones Finales
Comité de Derechos Humanos

Informe sobre el seguimiento de las observaciones finales del Comité de Derechos Humanos, [CCPR/C/117/2](#):

Assessment of replies

Reply/action satisfactory

- A Response largely satisfactory

Reply/action partially satisfactory

- B1 Substantive action taken, but additional information required
- B2 Initial action taken, but additional information and measures required

Reply/action not satisfactory

- C1 Response received but actions taken do not implement the recommendation
- C2 Response received but not relevant to the recommendation

No cooperation with the Committee

- D1 No response received within the deadline, or no reply to a specific question in the report
- D2 No response received after reminder(s)

The measures taken are contrary to the Committee's recommendations

- E Response indicates that the measures taken are contrary to the Committee's recommendations
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Concluding observations:	CCPR/C/BOL/CO/3, 29 October 2013
Follow-up paragraphs:	12, 13 and 14
First reply:	24 February 2015
Committee's evaluation:	Additional information required on paragraphs 12[C2][D1][C2][C2], 13[C2][D1][D1][B2] and 14[B2]
Second reply:	29 September 2015
Committee's evaluation:	Additional information required on paragraphs 12[C1][C2][C2][C1], 13[D1][B2][C2][B1] and 14[B2]

Paragraph 12: The State party should:

- (a) **Actively investigate human rights violations committed during the period in question so as to identify those responsible, prosecute them and punish them accordingly;**
 - (b) **Ensure that the Armed Forces cooperate fully in the investigations and promptly hand over all the information at their disposal;**
 - (c) **Revise the standards of proof in relation to acts for which reparation is sought so that the burden of proof borne by victims is not an insurmountable obstacle;**
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establish a mechanism for appeal and review of applications; and make available the resources needed to ensure that victims will receive the full amount of compensation awarded to them;

(d) Guarantee the effective enjoyment of the right to full redress, including psychosocial care and counselling and the honouring of historical memory, as established in Act No. 2640. Particular attention should be paid to gender considerations and victims in vulnerable situations.

Follow-up question:

(a)[C2]: The State party has not provided new information. The Committee requires information on the proposed truth commission, on progress towards its adoption and on whether it complies with international human rights standards regarding investigations into human rights violations committed under the de facto regimes of 1964–1982. It also requests information on the participation of civil society in the drafting of this bill. In addition, the State party should provide information on the progress made since 2013 in identifying those responsible for human rights violations committed under the de facto regimes of 1964–1982, and regarding prosecutions and punishments, including the plans for investigating the Teoponte and Estrada cases. In regard to the Teoponte case, please provide information on the area identified in June 2014 as the possible site of a common grave and whether excavations have been initiated there.

(b)[D1]: The Committee requires information on measures taken to ensure that victims, and their families, including through judicial orders, have access to information contained in military archives. The Committee also requires information on measures taken to ensure better cooperation from the Armed Forces in providing information at their disposal. The Committee reiterates its recommendation.

(c)[C2]: The Committee notes that no action has been taken to revise the standard of proof in relation to acts for which reparation is sought, to establish a mechanism for appeal and review of applications, and to make available the resources needed to ensure that victims receive the full amount of compensation awarded to them. The Committee reiterates its recommendation.

(d)[C2]: The Committee notes that the State party has not provided information on measures taken to provide full redress to victims of human rights violations committed under the de facto regimes of 1964–1982. The Committee reiterates its recommendations.

Summary of State party's reply:

(a) The draft bill for a proposed truth commission is under consideration by the House of Representatives since 2013 (see CCPR/C/BOL/3 and CCPR/C/BOL/CO/3/Add.1).

Concerning the Teoponte case, in September 2015 an inspection was carried out to assess conditions and start excavations. Excavations are being considered based on the results of this inspection.

Concerning the Estrada case, in 2011 witnesses were interviewed and excavations were conducted, without success.

(b) The State party repeated the information provided in its Replies to the List of Issues (CCPR/C/BOL/Q/3/Add.1, paras. 54 and 58).

(c) The State party repeated the information provided in its Replies to the List of Issues (CCPR/C/BOL/Q/3/Add.1, paras. 52 and 59) and in its previous Follow-up Report (CCPR/C/BOL/CO/3/Add.1).

(d) The State party referred to the Law 2640 (2004) which establishes that financial resources for compensation would be provided as follows: (i) 20% from the General Treasury of the Nation; and (ii) 80% from private and international donations. Law 238 (2012) has authorized the disbursement of the 20%. Despite efforts made by the Ministry of Justice, it was not possible to gather the resources from private and international donations. Law 2640 does not establish an obligation to cover the remaining amount.

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Committee's evaluation:

(a)[C1]: The Committee notes the information provided on the Teoponte case, but regrets the lack of new information with respect to the Estrada case, the establishment of the truth commission, and investigations and prosecutions into past human rights violations. The Committee reiterates its recommendation and its prior request for additional information.

(b)(c)[C2]: The State party has not provided new information. The Committee reiterates its recommendation.

(d)[C1]: The Committee notes the information provided by the State party and regrets that the State party has not been able to gather the total amount for compensation through the process established by Law 2640(2004). The Committee requires information on additional measures taken to provide full redress to victims of human rights violations committed under the de facto regimes of 1964–1982. The Committee reiterates its recommendations.

Paragraph 13: The State party should amend the current rules of military criminal law to exclude human rights violations from military jurisdiction. It should also amend the Criminal Code to include a definition of torture that is fully in line with articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with article 7 of the Covenant. The State party should ensure that all alleged acts of torture or ill-treatment are promptly investigated, that the perpetrators are prosecuted and punished in a manner that is commensurate with the seriousness of the offence and that the victims obtain appropriate redress and protection. The State party should expedite its adoption of the measures required to establish a national mechanism for the prevention of torture and ensure that that body is provided with sufficient resources to enable it to operate efficiently.

Follow-up question:

[C2]: The Committee notes that the response received by the State party is not relevant to the Committee's recommendation and that the recommendation has not been implemented. The Committee reiterates its recommendations.

[D1]: The Committee notes that the State has not provided additional information. The Committee reiterates its recommendation that State party amend the Criminal Code to include a definition of torture that is fully in line with articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with article 7 of the Covenant.

[D1]: The Committee notes that the State party has not provided information on measures taken to ensure that all alleged acts of torture or ill-treatment are promptly investigated, that the perpetrators are prosecuted and punished in a manner that is commensurate with the seriousness of the offence and that the victims obtain appropriate redress and protection. The Committee reiterates its recommendation and requests information on the number of investigations and prosecutions of perpetrators of acts of torture or ill-treatment in the last two years.

[B2]: The Committee notes the establishment of SEPRET, but requires further information on its structure, on its scope of authority with respect to investigations into torture and other cruel, inhuman or degrading treatment or punishment, and on measures taken to ensure its independence and autonomy.

Summary of State party's reply:

(a) No information has been provided.

(b) A draft law to amend the Penal Code is currently being debated. The draft article on the definition of torture is in accordance with the CAT.

(c) No information has been provided.

(d) The State party provided information on the structure, scope of authority, independence and autonomy of the Service for the Prevention of Torture (SEPRET). The SEPRET is a decentralized institution and as such, has administrative, financial, judicial and technical

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autonomy. The SEPRET is an ex officio plaintiff in judicial proceedings and is in charge of following cases of torture, inhuman and degrading treatment.

Committee's evaluation:

(a)[D1]: With respect to measures taken to amend the rules of military criminal law, no information has been provided. The Committee reiterates its recommendations.

(b)[B2]: Concerning the amendments to the Criminal Code, the Committee welcomes the information provided by the State party and requests information on the progress toward amending the Criminal Code, and the participation of the civil society in this process.

(c)[C2]: The Committee notes that, other than the information on SEPRET, the State party has not provided information on measures taken to ensure that all alleged acts of torture or ill-treatment are promptly investigated, that the perpetrators are prosecuted and punished, and that victims obtain full redress. The Committee reiterates its recommendation.

(d)[B1]: With respect to the SEPRET, the Committee welcomes the information provided by the State party and requests information on:

(i) the nomination of the Chief Executive Director;

(ii) whether the SEPRET establishes an independent mechanism in charge of receiving and investigating complaints of torture;

(iii) whether the SEPRET has participated or plans to participate as an ex officio plaintiff and the cases involving torture and other cruel, inhuman or degrading treatment or punishment that it has followed; and

(iv) the financial and human resources allocated to the SEPRET and whether they are sufficient to perform its functions.

Paragraph 14: The State party should speed up the proceedings relating to the incidents of racial violence that occurred in Pando and in Sucre in 2008 in order to put an end to the prevailing situation of impunity. The State party should also award full redress to all the victims, including appropriate medical and psychosocial treatment for the injury suffered.

Follow-up question:

[B2]: The Committee welcomes the information provided by the State party on the Pando and Sucre cases and requires updated information on those proceedings. The Committee also requires information on measures taken to award full redress to all the victims, including on the relevance of the project implemented by the Ministry of Health and Sports under the National Mental Health Plan 2009-2015.

Summary of State party's reply:

The State party repeated the information provided in its Follow-up Report (CCPR/C/BOL/CO/3/Add.1).

Two defendants have been sentenced to two years imprisonment and benefited from judicial pardon.

The State party provided extensive information on the National Mental Health Plan 2009-2015.

Committee's evaluation:

[B2]: The Committee welcomes the information provided by the State party on the Pando and Sucre cases and on the National Mental Health Plan 2009-2015, but requires additional information on (i) actions taken after the adoption of the concluding observations on Bolivia (CCPR/C/BOL/3) on 29 October 2013; and (ii) measures taken to award adequate financial compensation to all victims.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 1 November 2018

