

**Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 34th Session**

BOLIVIA

I. BACKGROUND INFORMATION

Bolivia has ratified the *1951 Convention relating to the Status of Refugees* in 1982 and its *1967 Protocol* in the same year (hereinafter jointly referred to as the *1951 Convention*). Bolivia has ratified the *1954 Convention relating to the Status of Stateless persons* and the *1961 Convention on the Reduction of Statelessness* (the *1954 Convention* and the *1961 Convention* respectively) in 1983.

The domestic legal framework dealing with refugees is set out in the *Refugee Law No. 251* (2006), which establishes a National Refugee Commission (CONARE) in charge of adjudicating asylum claims and finding durable solutions for refugees. Also, the Law enshrines important provisions, ranging from those related to the refugee status determination (RSD) procedure to those referring to the search for durable solutions, such as local integration and access to fundamental rights (documentation, employment, health care and education). *Supreme Decree No. 1,440* regulates the implementation of the *Refugee Law*. The refugee legal framework is also complemented by *Immigration Law No. 370* that incorporates safeguards regarding the protection of asylum-seekers and the prevention of *refoulement* at borders.

As of June 2018, Bolivia hosted a total of 828 refugees and 232 asylum-seekers awaiting a decision at the first instance of the RSD procedure. The majority of recognized refugees originate from Peru (62 per cent) and Colombia (27 per cent). The majority of asylum-seekers with pending decisions originate from Venezuela (73 per cent) and Colombia (9 per cent).

The Venezuela situation is affecting neighbouring countries, including Bolivia and others beyond. The ongoing political, human rights, and socio-economic developments in Venezuela have led to the outflow of more than 3 million refugees and migrants according to UNHCR and IOM figures. International protection considerations have become apparent for a significant proportion of those leaving Venezuela. According to declarations by public officials, it is estimated that as of 31 August 2018 1,196 Venezuelan nationals were provided with residency permits in Bolivia.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

UNHCR commends Bolivia for supporting the adoption of the *Global Compact on Refugees* in December 2018, which represents the political will and ambition of the international community as a whole for strengthened cooperation and solidarity with refugees and host countries.

UNHCR also praises Bolivia's active participation in the Regional Commemorative process for the 30th Anniversary of the *Cartagena Declaration on Refugees*. The Government of Bolivia attended the sub-regional meetings and the final regional meeting that led to the adoption of the *Brazil Declaration and Plan of Action (BDPA): "A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity"*. UNHCR welcomes Bolivia's involvement in this regional process, and encourages the authorities to move forward with the adoption of measures and implementation of activities to address the commitments made under the *BDPA* with a view to strengthen the protection of refugees and stateless persons.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Human trafficking and smuggling

Linked to 2nd cycle UPR recommendation no. 114.52: "Establish standard operating procedures for the identification of victims of human trafficking" (Trinidad and Tobago).

Bolivia continues to be a source and destination country for human trafficking and smuggling. Increasing difficulties in accessing individual documentation coupled with the absence of local integration programs make asylum-seekers and refugees, particularly women and girls, especially vulnerable to human trafficking for sexual exploitation. No special provisions have been made to prevent refugees, asylum-seekers, and other persons under UNHCR's mandate from being trafficked. Moreover, Bolivia also falls short of standard operating procedures and mechanisms ensuring the prompt identification and effective referral for persons in mixed movements who may be in need of international protection. This includes presumed or actual victims of trafficking who may have a well-founded fear of persecution in their country of origin or, due to the situation they have experienced, cannot return to their country of origin, because their lives or physical integrity would be at risk.

In this context, victims or potential victims of human trafficking who are at risk of persecution, if returned to their countries of origin, may qualify as refugees within the meaning of the *1951 Convention*. UNHCR's *Guidelines on victims of trafficking* provide guidance on the adjudication of asylum applications submitted by victims or potential victims of trafficking.¹

Recommendations:

UNHCR recommends that the Government of Bolivia:

- (a) Adopt effective measures, including the development of standard operating procedures, to facilitate the prompt identification and referral of survivors of trafficking or sexual exploitation to the asylum system, when appropriate;
- (b) Strengthen refugee status determination procedures to ensure that asylum claims from victims of trafficking are fairly and appropriately examined, in line with international standards; and
- (c) Adopt specialized programs and policies to protect and support victims who cannot return to their countries of origin.

Additional protection challenges

Issue 2: Refugee status determination procedures

¹ UN High Commissioner for Refugees, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, available at: <http://www.unhcr.org/refworld/docid/443679fa4.html>

The *Refugee Law N° 251* adopted in 2012 and its Regulatory Decree are in line with main international standards. The national refugee legislation enshrines important provisions, ranging from those related to the RSD procedure to those referring to the search for durable solutions, such as local integration or access to economic, social and cultural rights. The law guarantees key protection principles including, *inter alia*, *non-refoulement*, abolition of sanctions for illegal entry into the country, confidentiality, family reunification and non-discrimination. Since the regional refugee definition (*Cartagena Declaration*) is also incorporated in the law, most persons in need of international protection may find and obtain protection under the classic or broader definition of a refugee in Bolivia.

However, frequent changes in the composition of CONARE and its Secretariat coupled with authorities' lack of training on asylum issues have weakened the capacity of the asylum system in a context in which asylum applications are increasing exponentially. As a result, asylum-seekers are experiencing difficulties in accessing asylum procedures, also due to the introduction, in practice, of additional restrictive requirements, such as proof of regular entry to the territory to accede the asylum system, and delays in adjudicating asylum claims.

Recommendations:

UNHCR recommends that the Government of Bolivia:

- (a) Adopt all necessary measures to ensure the full and effective implementation of the provisions and safeguards provided in the *Refugee Law No. 251* and its Regulatory Decree, and the unrestricted access to the asylum system.

Issue 3: Statistical information and data collection on persons under UNHCR's mandate

The Bolivian government does not produce or issue updated statistical data on refugees and asylum-seekers living in the country, disaggregated by sex, age, nationality and place of asylum application. Under Article 35 of the *1951 Convention* it is foreseen that UNHCR should receive such information on a regular basis. Regrettably, the Government has not provided this information in recent years, and UNHCR has had to rely on second-hand information and data from non-governmental organizations.

Recommendations:

UNHCR recommends that the Government of Bolivia:

- (a) Collect and share updated statistical data on refugees and asylum-seekers living in the country, disaggregated by sex, age, nationality and place of asylum application.

Issue 4: Protection-sensitive border management

Bolivia lacks standard operating procedures to assist migration authorities and the National Commission for Refugees with the identification of persons in need of international protection and their referral to the asylum system, especially in border areas and at airports.

UNHCR wishes to emphasize that the adoption of protocols and providing border agents with clear instructions and training on international refugee law and human rights remain key to identify persons in need of international protection and to prevent *refoulement*, particularly in a context marked by mixed movements.

Recommendations:

UNHCR recommends that the Government of Bolivia:

- (a) Adopt standard operating procedures, protocols or mechanisms for migration and border authorities on the identification of persons in need of international protection at borders and airports and for their referral to the asylum procedure; and

- (b) Ensure the implementation of training or sensitization activities for migration and border control authorities on the application of refugee law, human rights law and the *non-refoulement* principle.

Issue 5: Immigration legislation

Despite several efforts made by the Government to reform its immigration legislation, Bolivia still lacks mechanisms to facilitate migratory regularization or alternative migratory pathways that could benefit persons of UNHCR's concern, in particular Venezuelan nationals. Restrictive provisions are mainly related to excessive costs associated with the migratory regularization procedures, high penalties established in cases of irregular entry and stay, and the existence of limited safeguards for family reunification or humanitarian reasons as grounds for the adoption of exceptional measures, among others.

President Morales signed in October 2018 the *Supreme Decree No. 3,676/2018* approving a regularization mechanism for persons with an irregular entry or stay in Bolivia. Anyone, irrespective of nationality, having temporarily resided in Bolivia for minimum six months, is eligible to apply provided their stay was justified on grounds, such as work, study or family reunification. Under this procedure, eligible persons may request approval for a temporary stay of up to maximum two years in Bolivia.

In practice, the high costs involved in the procedure and the difficulties in meeting the required standard of proof restrict access for many potential beneficiaries with limited resources and/or in a vulnerable situation.

Recommendations:

UNHCR recommends that the Government of Bolivia:

- (a) Amend the *Immigration Law N° 370* and complementary Decrees/Resolutions to remove constraints that prevent persons under UNHCR's mandate from accessing migratory regularization procedures, including, among others, fees.

**UNHCR
March 2019**

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

BOLIVIA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations and UN Treaty Monitoring Bodies' Concluding Observations reports relating to issues of interest and persons of concern to UNHCR with regards to BOLIVIA.

I. Universal Periodic Review (Second Cycle – 2014)

Recommendation ²	Recommending State/s	Position ³
Trafficking of human beings		
113.9 Finish the development of indicators for the human right to water and sanitation, combating trafficking and smuggling of human beings, and access to justice and fair trial;	Peru	Supported
114.48 Strengthen trans-boundary checkpoints, and the specialized security and judicial authorities to combat human trafficking;	Lebanon	Supported
114.49 Strengthen actions to ensure the effective implementation of legislation aiming at reducing and eliminating trafficking and smuggling of persons	Argentina	Supported
114.51 Step up efforts to combat crime to work on national plan of action against human trafficking and to prevent sexual slavery and violence in the family;	Russian Federation	Supported
114.52 Establish standard operating procedures for the identification of victims of human trafficking;	Trinidad and Tobago	Supported
114.54 Continue prevention, protection and assistance for the victims of trafficking;	Iran	Supported
Equality and non-discrimination		
114.9 Introduce gender equality issues, as well as non-discrimination and non-violence due to gender identity and sexual orientation in education programmes, in school regulations and in the training of teachers;	Colombia	Supported
114.35 Address the underlying structural factors regarding discrimination against indigenous peoples and Afro-Bolivians and set and monitor the implementation of concrete equality;	Republic of Korea	Supported
114.36 Continue its efforts to fully implement the 2012–2015 plan of action against racism and all forms of discrimination;	Palestinian Authority	Supported
114.37 Take further measures to combat racism and all forms of discrimination, especially with respect to women, children, indigenous people and Afro-Bolivians;	Trinidad and Tobago	Supported

² All recommendations made to Bolivia during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Bolivia" (17 December 2014), A/HRC/28/7, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/BOIndex.aspx>.

³ Bolivia's views and replies, in English, can be found in: *Addendum* (18 March 2015), A/HRC/28/7/Add.1, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/BOIndex.aspx>.

114.84 Continue its efforts to achieve gender equality and tackle discrimination against women in law and in practice;	Pakistan	Supported
114.126 Continue its policy against racism and all forms of discrimination particularly in favour of indigenous peoples;	Angola	Supported
Violence against women and children		
114.51 Step up efforts to combat crime to work on national plan of action against human trafficking and to prevent sexual slavery and violence in the family;	Russian Federation	Supported
114.79 Strengthen and increase current efforts, including through international cooperation, aimed at protecting the rights of children and women, with a particular emphasis on combating violence against women and social exclusion, in line with international instruments that the Plurinational State of Bolivia is party to;	Brazil	Supported
114.88 Fully implement Comprehensive Act 348 on Guaranteeing a Life Free of Violence for Women;	South Africa	Supported
114.92 Continue its efforts to overcome gaps and implement provisions to address gender violence as well as to carry out prompt, thorough and impartial investigations into all complaints of gender-based violence;	Slovenia	Supported
Migrants' rights		
113.27 Improve protection mechanisms for migrants and consider establishing return programmes for migrants;	Philippines	Supported
114.78 Recognize migrants and their families as a vulnerable group and implement measures in law and in practice for the protection and promotion of their rights;	Mexico	Supported
Freedom of expression		
114.71 Further advance to democratize communication and information;	Venezuela	Supported
114.72 Ensure security and protection of all journalists and media-institutions, and that legislation complies with international standards on free speech;	Norway	Supported
114.73 Ensure that journalists and reporters can freely exercise their right to freedom of expression;	Israel	Supported
114.74 Reinforce ongoing measures for the promotion of freedom of expression, freedom of association and freedom of the press;	Senegal	Supported
115.14 Ensure the protection of human rights defenders and journalists as well as efficient and impartial investigation of threats and attacks targeting them;	Czech Republic	Noted
115.15 Recognize that independent and free media are an essential component of a functioning democracy, and allow all journalists and media outlets to operate without fear;	United States of America	Noted
Child labour		
114.115 Review the new legislation on child labour and consider developing a national plan to reduce child labour;	Slovenia	Supported
114.121 Ensure that the Code for Children and Adolescents and other relevant domestic legislation and practice are in full compliance with the requirements of ILO Convention No. 138;	United States of America	Supported
115.1 Provide a legislative framework for the eradication of child labour in accordance with its human rights obligations;	Germany	Noted
115.5 Develop a strategic plan to prevent the high rate of school dropout and eradicate child labour;	Mexico	Noted
115.8 Amend Law 548 on child labour to meet the State's international human rights obligations on the minimum working age for children, to	Canada	Noted

prohibit child labour in hazardous conditions, protect children from economic exploitation, protect children from any work that is likely to interfere with their education, and progressively raise the minimum age of employment;		
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II. Treaty Bodies

Committee on the Rights of Persons with Disabilities

Concluding Observations (4 November 2016), [CRPD/C/BOL/CO/1](#)

Liberty of movement and nationality (art. 18)

47. The Committee is concerned that universal registration of all persons with disabilities is not guaranteed and that newborns with disabilities are less likely to receive identity documents, which impedes their access to basic services. It is also concerned that not enough information is provided to families in this regard.

48. The Committee urges the State party to guarantee all persons with disabilities the right to be registered, and to train the staff of official institutions to register all persons with disabilities, particularly in indigenous communities and in remote and rural areas.

Committee on the Elimination of Discrimination Against Women

Concluding Observations, (28 July 2015), [CEDAW/C/BOL/CO/5-6](#)

Violence against women

18. While noting that Act No. 348 (2013) establishes a comprehensive framework for guaranteeing women a life free from violence, the Committee is nevertheless concerned about:

- (a) The prevalence of forms of violence against women, including physical, sexual, psychological and economic violence, in the State party and the lack of a strategy to prevent violence against women;
- (b) The lack of updated disaggregated information on the number of reports of violence against women, investigations, prosecutions, convictions and the sentences imposed on perpetrators;
- (c) The extremely low number of prosecutions and convictions of perpetrators in cases of violence against women, including in cases of femicide;
- (d) The referral of cases of violence against women to conciliation procedures, the prohibition on doing so notwithstanding;
- (e) The delay in the establishment of the “Genoveva Ríos” special police forces to combat violence against women, as mandated by Act No. 348, in particular in rural and remote areas;
- (f) The lack of sufficient forensic medical personnel to examine women who are victims of violence;
- (g) The insufficient support for victims of violence, including legal assistance, medical treatment, psychological counselling services and shelters.

19. The Committee recommends that the State party:

- (a) Develop, as a matter of priority and within a specific time frame, a strategy to prevent violence against women, with the participation of various stakeholders, including high-level government officials, and considering the special situations of risk to indigenous and Afro-Bolivian women, women with disabilities, migrant and refugee women and women in detention;**

- (b) Implement the single registry on domestic violence and the information system on domestic violence and ensure that periodic reports on violence against women are available and made public;**
- (c) Ensure that all cases of violence against women, including cases of femicide and sexual violence, are effectively investigated and prosecuted and perpetrators adequately punished;**
- (d) Ensure that cases of violence against women, including domestic violence, are under no circumstances referred to any alternative dispute resolution procedures;**
- (e) Strengthen the mandate of the “Genoveva Ríos” special police force against violence at the national, departmental and municipal levels and provide capacity-building to the police officers to enable them to discharge their duties in a gender-sensitive manner, and address stigmatization of victims of violence;**
- (f) Ensure that forensic medical personnel receive regular training on gender-sensitive examination and investigation procedures in cases of violence against women;**
- (g) Allocate sufficient funding for adequate shelters throughout Bolivian territory and provide women who are victims of violence with effective access to medical treatment, psychological counselling, legal assistance and other support services.**

Trafficking and exploitation of prostitution

20. The Committee notes with concern:

- (a) The high and growing number of cases of trafficking in human beings, in particular women and children in border areas;**
- (b) Cases of internal trafficking of indigenous women for purposes of forced prostitution, in particular in areas in which major development projects are being implemented;**
- (c) The absence of shelters for women who are victims of trafficking outside La Paz and Santa Cruz and the lack of rehabilitation and reintegration services for victims;**
- (d) The harsh sentences imposed on victims of trafficking for criminal offences committed as a direct result of their trafficked status;**
- (e) The vulnerability of refugee, asylum-seeking and migrant women in transit through the State party who are at risk of falling prey to criminal trafficking networks;**
- (f) The lack of programmes to support the rehabilitation and reintegration of women in prostitution.**

21. The Committee calls upon the State party:

- (a) To undertake an assessment of the situation of trafficking in the State party as a baseline for measures to address trafficking and to improve the collection of data on trafficking disaggregated by sex, age and ethnicity;**
- (b) To raise awareness, in particular among indigenous rural women, about trafficking in human beings, the methods employed by traffickers and measures for self-protection;**
- (c) To ensure the prompt implementation of the Plurinational Plan against Trafficking in Human Beings (2013-2017), including by providing the necessary human and financial resources;**
- (d) To reconsider the harsh sentences imposed on victims of trafficking for criminal offences;**
- (e) To establish shelters, provide rehabilitation and reintegration services for women who are victims of trafficking and disseminate information on shelters for victims of trafficking in all parts of the State party;**
- (f) To develop international bilateral or multilateral cooperation with countries in the region to address trafficking and prosecute traffickers;**

(g) To address the root causes of prostitution and develop exit programmes for women in prostitution, including alternative income-generating opportunities for women who wish to leave prostitution.

Migrant and refugee women

36. The Committee is concerned about the situation of migrant and refugee women who face violence and abuse and who are subjected to smuggling and sexual violence, in particular Colombian women in transit to Chile who are fleeing violence. The Committee is also concerned about the lack of protection from unscrupulous border agents and criminal networks active in the border areas. Additional concern exists about the many refugee and asylum-seeking women who lacked adequate information about their rights and who suffered sexual and gender-based violence.

37. The Committee recommends, in line with its general recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, that the State party address the risk of smuggling and sexual violence against women and adopt measures to prevent and to ensure the sanction of the abuse of women who are in need of international protection. It also recommends strengthening law enforcement in border areas. Lastly, it recommends the adoption of protocols developed by the Office of the United Nations High Commissioner for Refugees for conducting the refugee status determination process in a gender-sensitive manner, with full respect for the procedural rights of women, including individual interviews by trained female interviewers and interpreters.