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January 24, 2008

Mr. Juan Evo Morales Ayma
President of the Republic of Bolivia
La Paz - Bolivia

Re: Constitutional amendments proposed by your government

Dear President Morales,

We are writing to express our deep concern following our evaluation of the proposed constitutional amendments that are being promoted by your government. We fear that this reform will endanger some of the fundamental rights of Bolivian citizens that are protected both in Bolivia's current constitution and the international treaties Bolivia has joined and ratified.

The Human Rights Foundation is an international human rights organization dedicated to exposing and opposing violations of civil and political rights and breaches of international legal obligations in the Americas.

We have been following the situation in Bolivia with great concern. Our international law department has carefully reviewed your proposed constitution and has brought to our attention several issues that may conflict with Bolivia's international obligations (e.g. the *International Covenant on Civil and Political Rights* [Bolivia's accession – August 12, 1982]) as well as the acceptable standards of the due process and the rule of law.

One of our major concerns lies in the creation of indigenous courts. These courts will operate under a system of communal justice using the principles, cultural values, norms, and procedures native to the indigenous society (Article 200 of reforms). People convicted of crimes under this traditional system could potentially be subjected to lashings or even death as punishment – both actions that are prohibited under State law. There is also no independent judicial review to oversee the administration of justice under these traditional systems, nor is there any higher authority that can overrule communal sentences.

A report recently released by our organization and published at www.HumanRightsFoundation.org revealed that between November 2005 and September 2007 more than 28 people were executed by burning, smothering and crucifixion, all under the pretext of the distorted concept of "communal justice." In the last two years the number of victims has increased dramatically. Most recently on January 16, 2008 a student was lynched in the town of Ivirgarzama, Cochabamba. Rolando Gira Meruvia (24 years old) was put inside a bag and beaten by coke growers before being buried alive. The medics at the Hospital Central de Ivirgarzama certified that the cause of his death was asphyxiation. This homicide also demonstrates the racial discrimination that exists within the communal justice system (HRF Press Release: <http://hrfbolivia.blogspot.com>).

Article 26 of the *International Covenant on Civil and Political Rights* recognizes the rights of all people to be held equal before the law and free from discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. By enabling full judicial autonomy to the indigenous courts, as proposed in Article 189 of the reforms, you are discriminating against these populations based on their ethnic background. Further, by failing to provide any power of judicial review you are violating both Article 26 of the *International Covenant on Civil and Political Rights* as well as the standards of due process and rule of law.

We are further concerned with your agrarian reforms that aim to limit the right of citizens to privately own land (Article 57 and Article 392 of the reforms). We feel that these limitations on land ownership will discriminate against specific segments of the Bolivian people. Article 57 of the reformed constitution states that the expropriation of land will be established in cases of public necessity or utility, or when the property does not have any social function. Article 1 of the *International Covenant on Civil and Political Rights* guarantees that all people are free to dispose of their own natural wealth and resources in any manner they see fit. If your government implements agrarian reform that would require the redistribution of unused lands, it would infringe upon the landowners' right to economic development (Part I, Article 1, sections 1 and 2 of the *International Covenant on Civil and Political Rights*).

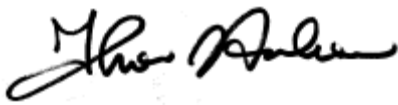
The different treatment of privately owned land, which is limited in use and size by the state, versus communal indigenous land, which is indivisible and untaxed, explicitly expresses discriminatory treatment towards private landowners (Article 392 of reforms). The differences in regulations between privately owned and communal land violates the spirit and intention of the *International Covenant on Civil and Political Rights* (e.g. Article 1 Section 2, Article 17).

Mr. President, your constitutional amendments explicitly contradict Bolivia's international legal obligations to protect the fundamental rights of Bolivian people.

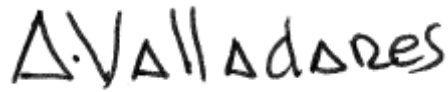
Furthermore, these amendments go against the sense of justice and our understanding of the rule of law. Unsurprisingly, these reforms will continue to be a source of instability in Bolivia because many of your people will not quietly accept such an assault on their guaranteed civil rights. We would appreciate your reconsideration of these proposed reforms, and hope that you will amend the specific provisions that jeopardize the civil rights of the Bolivian people.

The Human Rights Foundation will continue monitoring the situation in Bolivia. Thank you for your attention in this grave matter.

Respectfully,



Thor Halvorssen
President



Armando Valladares
Chairman

cc.

Inter-American Commission on Human Rights (Santiago Canton)
The Organization of American States (José Miguel Insulza)
Inter-American Court of Human Rights (Sergio García Ramírez)
International Society for Human Rights (Alexander V. Bischoffshausen)
European Parliament - Human Rights Unit (Geoffrey Harris)
European Parliament - Subcommittee on Human Rights (Hélène Flautre)
UN Office of the High Commissioner for Human Rights (Louise Arbour)
UN High Commissioner for Refugees (Roberto Mignone)
Council of Europe Office of the Commissioner for Human Rights (Thomas Hammarberg)
Bertrand Russell Peace Foundation (Ken Coates)
Asociación Democrática Costarricense (Orlando Castro Murillo)
Christian Solidarity Worldwide (David Atkinson)
Comisión Permanente de Derechos Humanos de Nicaragua (Nicolás Bolaños Geyer)
Cuban Committee for Human Rights (Ricardo Bofill)
UK Parliament - House of Lords (Lord Avebury)
The Bolivian Embassy, Washington DC (Mario Gustavo Guzmán Saldaña)
Permanent Mission of Bolivia to the United Nations (Javier Loayza Barea)