



Joint Submission to the Universal Periodic Review (UPR) of the Plurinational State of Bolivia

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Submission by:

The **Observatory of Religious Freedom in Latin America (OLIRE)** (<https://olire.org/es/>) founded in 2017, is a program of the *Platform Foundation for Social Transformation (FPST)*. FPST was established in 2010 as a non-profit organization focused on implementing programs that contribute to democracy, human rights (in particular religious freedom), the fight against corruption, protection of the rule of law, etc. **OLIRE** monitors the state of religious freedom in the region by documenting incidents of religious freedom violations and investigating the structural conditions that undermine religious freedom. Trains individuals and organizations, especially religious minorities. Conducts advocacy efforts through the development of public policy recommendations for the effective protection of religious freedom, especially for religious minorities in different spheres and at all levels. **Email:** tflores@olire.org

The **International Institute for Religious Freedom (IIRF)** (<https://iirf.global/>) is one of the oldest think tanks specializing in religious freedom. It was founded in 2007 with a mission to promote religious freedom for all religions from an academic perspective. We provide reliable and unbiased data on religious freedom to strengthen academic research on the topic and inform public policy at all levels. Our research findings are disseminated through the *International Journal for Religious Freedom* and other publications. **Email:** dpetri@iirf.global

The **World Evangelical Alliance (WEA)** (<https://un.worldea.org>) is a network of churches from more than 140 nations that have each formed an evangelical alliance and more than 100 international organizations that come together to give an identity, a voice and a global platform to more than 600 million evangelical Christians around the world. **Email:** geneva@worldea.org

The **National Association of Evangelicals of Bolivia** (<https://www.aelatina.org/alianza-nacional-de-evangelicos-de-bolivia-andeb/>), founded in 1966, brings together the historical evangelical denominations of the country and the organizations with the largest number of members. It is the representative body of the evangelical churches that are part of it before the Bolivian government authorities and promotes the defense of the Christian values on which it is based. **Email:** aguilera_agustin@hotmail.com

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Introduction

1. As a result of the third cycle of the Universal Periodic Review (UPR) of the Plurinational State of Bolivia (hereinafter Bolivia or State or Bolivian State) in 2019, the country received 238 recommendations. Of the total recommendations, the State accepted 129, 77 are implemented or in the process of implementation, 1 was partially accepted and took note of 31. In the third cycle of the UPR, only Haiti specifically recommended ensuring that any amendment to the Penal Code does not include obstacles to the religious freedom of Christians (A/HRC/43/7/Add.1 - Para.4).
2. Below, we will provide relevant information on the right to religious freedom in the country and some situations that describe the challenges that still persist for its full enjoyment and exercise.

International commitments

3. Among some of the State's international commitments, we can point out:
 - i. Bolivia has ratified the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights. Likewise, it has accepted individual communications procedures through the Optional Protocol to the International Covenant on Civil and Political Rights, as well as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
 - ii. Through Law No. 3760 in 2007, Bolivia approved and promulgated the United Nations Declaration on the Rights of Indigenous Peoples.
 - iii. Through Law No. 1257 in 1991, Bolivia recognized Convention 169 of the International Labor Organization on Indigenous and Tribal Peoples.

Constitutional and domestic legislative framework

4. The Bolivian legal system that recognizes the right to religious freedom includes:
 - i. Law No. 1161 (2019): Law on religious freedom, religious organizations and spiritual beliefs. Establishes a legal framework of rights and duties for the exercise of religious freedom and spiritual beliefs according to their worldviews, worship, conscience and thought individually or collectively, publicly or privately; and the institutional recognition of religious organizations and spiritual beliefs in the Plurinational State of Bolivia.
 - ii. Supreme Decree No. 4054 (2019): Partially regulates Law No. 1161.
 - iii. Political Constitution of the State (2009): The right to freedom of religion, spiritual beliefs, freedom of thought and other related rights are recognized in Articles 4, 14, 21, 86, 88, 108, 238 and 249. Additionally, Article 410, which indicates that the constitutional block is

composed of international treaties and conventions on human rights and the norms of Community Law, ratified by the country.

- iv. Law N° 1644 (1995): Approves and ratifies the Reversal Notes, subscribed between the Holy See and the Bolivian State, on the recognition of the juridical personality of the entities of the Catholic Church.
- v. Law No. 10426 (1972): Approves the Penal Code and punishes discrimination on religious grounds, genocide on religious grounds, as well as theft and qualified damage to things of religious value.

5. The Bolivian legal system that recognizes the right to religious freedom of indigenous communities includes:

- i. Political Constitution of the State (2009): Points out that, within the framework of the unity of the State and the Constitution, the native peasant indigenous nations and peoples enjoy the right to their cultural identity, religious beliefs, spiritualities, practices and customs, and to their own cosmovision and the protection of their sacred places, among others.
- ii. Law No. 1161 (April 2019): Establishes that people in the exercise of freedom of religion and spiritual beliefs have the right to freely choose the religion, cult or spiritual belief according to their worldview. Likewise, religious and spiritual belief organizations have the right to respect religious identity, as well as ancestral spiritual identities related to an indigenous native peasant people or nation.
- iii. Framework Law of Autonomies and Decentralization "Andrés Babiáñez" (2010): It states that the indigenous native peasant nations and peoples are peoples and nations that exist prior to invasion or colonization, constitute a socio-political unit, historically developed, with organization, culture, institutions, law, rituals, religion, language and other common and integrated characteristics.
- iv. Law N° 530 (2014): On Bolivian Cultural Heritage, regulates and defines public policies that regulate the classification, registration, restitution, repatriation, protection, conservation, restoration, dissemination, defense, ownership, custody, management, process of declarations and safeguarding of Bolivian Cultural Heritage.
- v. Law No. 71 (2010): On the rights of Mother Earth, determines that Mother Earth is considered sacred by the cosmovisions of the indigenous native peasant nations and peoples.
- vi. Law No. 073 (2010): On jurisdictional demarcation, indicates that among the principles that govern this law, the spiritual relationship between the indigenous native peasant nations and peoples and Mother Earth is included. Within the framework of their worldviews, the indigenous native peasant nations and peoples maintain a harmonious, complementary and respectful relationship with Mother Earth.

Religious freedom of indigenous communities

6. Despite the existence of regulations that recognize the spiritual identity and/or spiritual beliefs of the indigenous native peasant peoples, as well as the sacredness of their territories, there are still practices that violate the right to religious freedom of these communities.

7. The most widespread practice corresponds to land grabbing exercised by private companies, with or without State complicity, as well as by criminal organizations, in addition to the misuse of land as a result of informal resource extraction activities, such as gold, illegal logging and illegal coca leaf planting. The loss of land affects not only the loss of ancestral property but also their religious freedom, as it also affects the sacredness of their lands, their crops or their environment leading to the rupture of the social fabric, which in turn causes the loss of identity and transmission of their beliefs and customs. To this must be added the lack of effective possession of their territories, which can result in forced eviction or dispossession of property used for spiritual purposes, as well as the prohibition of entry to sacred sites.

8. Inconsistencies continue to exist in the country between the recognition of the rights of indigenous peoples, on the one hand, and economic policies relating to the extraction of natural resources, which has a disproportionate impact on indigenous territories and communities. The Independent Expert on foreign debt noted that the legal framework prescribing processes of prior consultation with communities affected by large-scale infrastructure projects was ad hoc and its implementation did not appear to be adequately aligned with international human rights standards¹.

9. The Committee on the Elimination of Racial Discrimination has also recommended that the State accelerate the processes of recognition, demarcation, registration and titling in order to ensure legal security for the indigenous native peasant nations and peoples with respect to the territories, lands and natural resources traditionally occupied and used by these peoples. Likewise, it has recommended that it adopt the necessary measures so that the indigenous native peasant nations and peoples can preserve, develop, express and share their identity, history, culture, languages, traditions and customs, as well as maintain their spiritual relationship with their lands, territories and resources.²

10. The Ombudsman's Office warned in the report "Lack of reinforced protection of highly vulnerable native indigenous nations and peoples in Bolivia, during the COVID-19 pandemic", that the guidelines for the management of the pandemic lacked an intercultural, differential and

¹ OHCHR, End of mission statement of the Independent Expert on the impact of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights. Visit to Bolivia, May 2019. Available at: <https://www.ohchr.org/es/2019/05/end-mission-statement-independent-expert-effects-foreign-debt-and-other-related>

² Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-first to twenty-fourth periodic reports of the Plurinational State of Bolivia, January 2024. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2660&Lang=en

culturally relevant approach, since they omitted to incorporate measures that adapted to the multinational reality such as language, cosmovision, uses and customs, as well as elements of ancestral traditional medicine, based on the use of material and spiritual resources for the prevention and cure of diseases that respect the harmonious relationship between individuals, families, the community with nature and the cosmos. Although the "Protocol for the Approach to Covid-19 in Indigenous Indigenous Peasant and Afro-Bolivian Peoples" was promulgated, it was approved four months after the beginning of the pandemic in Bolivian territory, it was not published or socialized and its content has limitations, among others, it only covers *declarative actions of health promotion, prevention and biosecurity measures; omitting actions and/or measures that establish comprehensive health care policies with an intercultural approach and measures that incorporate traditional medicine, as indicated in the objective of the protocol. In general, the report points out the lack of a public policy with an intercultural, differential and culturally relevant approach that seeks to strengthen traditional ancestral medicine with indigenous peoples.*³

Registration of religious entities

11. Law No. 1161 determines the procedure for the legal personality of churches, confessions, denominations, institutions, organizations, associations or federations or others of a religious nature, as well as organizations of spiritual beliefs, constituted as religious or spiritual belief organizations. The Catholic Church, as a result of historical agreements between the Holy See and the Bolivian government, is exempt from registration, however, other religious groups have stated that both the procedure and the minimum content required for the Statutes, as well as the excessive administrative requirements represent a bureaucratic burden that has limited their legal recognition.

12. Among the requirements, it is necessary to state the regime of administration of resources and patrimony, sources of internal and/or external financing; personal data of its representatives, as well as other details of the internal regulations and operation. Religious groups have chosen to perform their services in an unofficial manner in order not to disclose internal information to the government. Religious leaders of the evangelical community consider these measures intrusive since they grant the government regulatory power over the internal affairs of churches, to the point of defining what is and is not a church, thus restricting religious freedom.

Conscientious objection to military service

13. The Constitution states that all Bolivians are obliged to perform military service, that is, conscientious objection does not exempt from military service. There is a voluntary military service, but only in the case of 17 year old males, that is, minors.

³ Defensoría del Pueblo, Informe defensorial "Falta de protección reforzada de naciones y pueblos indígenas originarios altamente vulnerables en Bolivia durante la pandemia COVID-19", 2020. Available at: <https://www.defensoria.gob.bo/uploads/files/informe-defensorial-falta-de-proteccion-reforzada-de-naciones-y-pueblos-indigena-originarios-altamente-vulnerables-en-bolivia-durante-la-pandemia-covid-19.pdf>

14. In 2004, the Inter-American Commission on Human Rights (IACHR) received a petition presented by the Ombudsman of Bolivia, alleging the State's violation of Articles 1(1), 2, 12, 24 and 25 of the American Convention on Human Rights to the detriment of Alfredo Díaz Bustos, a Jehovah's Witness whose right to conscientious objection had been violated by the State when he was called to military service on February 29, 2000, directly affecting his freedom of conscience and religion. (Case 12.475 Alfredo Díaz Bustos)

15. In October 2005, the IACHR approved a friendly settlement agreement (Friendly Settlement Report No. 97/05) in which, among other points, the affected person was recognized as a conscientious objector, that is, he would not be deployed to the front lines in the event of armed conflict.

16. One of the points of agreement was also that, in accordance with international human rights law, the government should incorporate the right to conscientious objection with respect to military service in the draft regulations for the reform of military legislation. The Commission declared full compliance with the matter and the cessation of the monitoring of the friendly settlement agreement in the 2018 Annual Report.

17. In 2008, Bolivia ratified the "Ibero-American Convention on the Rights of Young People", however, it maintained the reservation of paragraphs 1 and 2 of Article 12 of the Convention, article referring to the right to conscientious objection: *Paragraph 1.* Young people have the right to formulate conscientious objection to compulsory military service. *Subparagraph 2.* The States Parties undertake to promote appropriate legislative measures to guarantee the exercise of this right and to move towards the progressive elimination of compulsory military service.

18. In June 2020, the IACHR declared admissible petition 1384-16, filed by the Organization Derechos en Acción on behalf of José Ignacio Orías Calvo. The petitioners alleged that the State has violated the human rights of José Ignacio Orías Calvo by not exempting him from performing mandatory military service on the basis of his right to conscientious objection. The alleged victim identifies himself as an atheist who believes "in life, in non-violence, in love and in collaboration over imposition", for which reason the army and war go against his ethical principles.⁴ An analysis of the merits of the case is still pending.

19. To date, no initiative or administrative measure has succeeded in expressly recognizing the right to conscientious objection to military service in the country.

20. As part of the right to freedom of thought, conscience and religion, the state does not grant the right to conscientious objection free of charge; it is only obliged to recognize and protect it. In this sense, when faced with a situation in which one's freedom of conscience is compromised by a legal obligation that one tries to impose, against one's own convictions, every person has the right to act in accordance with his or her conscience. Respect for this freedom is an act of non-discrimination of those who have a conception of life and ethics different from the values that inspire a given legislation. The Bolivian government, in order to comply with its international obligations, has the obligation to recognize this dimension of the right to freedom of thought and to make possible conscientious objection to military service.

⁴ Inter-American Commission on Human Rights, Report No. 147/20, Petition 138416, June 2020. Available at: <https://www.oas.org/es/cidh/decisiones/2020/boad1384-16es.pdf>

The right to establish denominational schools and to train, appoint or elect leaders, priests and teachers.

21. The Bolivian Episcopal Conference (CEB) has expressed its intention to present to the IACHR the case of the closure of the teacher training institute Sedes Sapientiae. The closure of the institute occurred in 2010, by one of the transitory provisions of Law 070 on Education, which sought to nationalize training and through which the State assumes sole responsibility for promoting new teachers for a secular State. This law ordered the closure of two teacher training schools administered by the Catholic Church and the Adventist Church. In December 2022, the CEB filed a request for reopening with the Ministry of Education, however, the request was denied. In 2023, the Plurinational Constitutional Tribunal, through AUTO CONSTITUTIONAL 0118/2023-CA of March 8, 2023 - File: 53564-2023-108-AIC - rejected the specific unconstitutionality action filed regarding Ministerial Resolution (RM) 004/2023 of February 22.

22. In the public sphere, religious freedom encompasses respect for the norms of each religious tradition, i.e., respect for autonomy, with the consequent expectation of non-interference in the internal functioning of each religious organization or group to fulfill its core mission. Since religious communities exist in organized structures, it is essential to safeguard associative life against unwarranted interference by the state or other non-state actors. One of the ways in which this central mission is externalized is through religious educational centers or organizations. In this sense, prohibiting or hindering in any way religious communities from establishing educational centers implies the restriction of education as a means of disseminating religious beliefs⁵. In the same sense, requiring religious communities to provide courses without political or ideological implications violates their right to religious freedom.

23. On the other hand, General Comment No. 22 of the Human Rights Committee on Art. 18 of the International Covenant on Civil and Political Rights develops this aspect when it emphasizes that the practice and teaching of religion or belief include acts that are an integral part of the way in which religious groups carry out their fundamental activities, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools, and the freedom to prepare and distribute religious texts or publications.⁶

Crisis 2019: Tension in Government-Catholic Church relations

24. On October 20, 2019, general elections were held in Bolivia. Partial results preliminarily pointed to a runoff between Evo Morales, of the Movimiento al Socialismo (MAS) political party, and Carlos Mesa, of the Comunidad Ciudadana party. After multiple irregularities - not only on election day, but for months before - the TSE declared Evo Morales' victory in the first round on October 25. In December 2019, the Electoral Integrity analysis conducted by the Organization of

⁵ Inter-American Commission on Human Rights, Report on Cuba, 1983.

⁶ Latin American Journal of Law and Religion, Special Issue Pavez Pavez vs Chile Case, "Amicus Curiae Case Pavez Pavez vs Chile", March 2021. Available at: <https://platformforsocialtransformation.org/download/religiousfreedom/Muga-Flores-Amicus-Curiae-Caso-Pavez-Pavez-vs.-Chile.pdf>

American States pointed out that deliberate actions were carried out in the country that sought to manipulate the election result.⁷

25. Between October 20 and November 25, 2019, the political crisis unleashed massive protests, national strikes and blockades, with a sharp escalation of violence. As a result of the crisis, on November 10, Evo Morales and other government authorities resigned from their posts. In the following days, other electoral authorities were arrested at the national level. On November 12, Senator Jeanine Añez declared herself interim president of the state. Subsequently, in November 2019, the Plurinational Legislative Assembly unanimously approved Law 1266, which left without effect the results of the 2019 election, called for new general elections and defined a renewal of electoral vocals. The elections were postponed due to the COVID-19 pandemic, until October 2020, elections in which the MAS party candidate, Luis Arce Catacora, was the winner.

26. Under Luis Arce, and without stopping to analyze the independence of the Executive and Judicial Branches in the process, the government concluded that on November 12, 2019, a coup d'état was carried out and promoted under the narrative of an alleged "electoral fraud" and the inauguration of Jeanine Añez was considered a forced and irregular succession. Recently, in December 2023, the Commission of Prosecutors filed formal charges against 8 people - among them Jeanine Añez, who has been detained since March 2021 and the leader of the opposition of Santa Cruz, Luis Fernando Camacho - for the crimes of Terrorism, Delinquent Association, Misuse of Public Goods and Services for the conflicts that took place in October and November 2019.

27. In April 2021, the Bolivian Attorney General's Office submitted to the United Nations High Commissioner for Human Rights a report on the development of the protests that occurred during the general elections of October 2019 and that according to the Attorney General's Office "constituted a coup d'état following the narrative of alleged electoral fraud." In addition to describing the brief presidential term of Jeanine Añez Chávez as a de facto government in which human rights were violated, the Ombudsman's Office states that "the coup in Bolivia was organized, planned and executed by the Civic Committees at the head of Luis Fernando Camacho (MAS opposition leader), by police, military and the Catholic Church."⁸

28. In response to this accusation, on June 15, the General Secretariat of the Bolivian Episcopal Conference (CEB) released the "Report-Memory of the Facts of the Pacification Process in Bolivia, October 2019-January 2020". Through this document the CEB describes and recounts the actions carried out from its role as facilitator of dialogue in processes that involved government, members of diplomatic bodies, citizens, the opposition and members of the church. It also emphasizes that its participation at no time had a deliberative character, thus rejecting accusations of conspiracy or cover-up that facilitated or provoked the alleged coup d'état.⁹

⁷ Organization of American States, "Final Report on the Audit of the Elections in Bolivia," December 2019. Available at: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-109/19

⁸ Attorney General's Office, Joint Communication of the Special Procedures, "Request for Information AL BOL 3/2020", April 2021. Available at: https://www.procuraduria.gob.bo/ckfinder/userfiles/files/PGE-WEB/_MarcoLegal/Comunicacion_conjunta_de_los_procedimientos_especiales.pdf

⁹ Bolivian Episcopal Conference, Memoria de los hechos del proceso de pacificación en Bolivia, October 2019-January 2020. Available at: <https://ceb.bo/wp-content/uploads/2023/01/Informe-de-los-Hechos-de-Pacificacion.pdf>

29. In February 2023, the Attorney General's Office requested that the Prosecutor General's Office summon the Catholic bishops to testify as "witnesses" and explain their participation in the political crisis of 2019. Although such request did not prosper, it is a sign of the currently tense relationship between the Catholic Church and the government.

30. OLIRE sources stated that such tension is evidenced every time the Catholic Church questions issues of concern such as legal insecurity, political persecution, corruption and others. They also mentioned that between 2020 to date, criminal actions against visible members of the Church have been registered through which violations to the presumption of innocence and due process were recorded, being an example the "testimonial" statement taken in November 2023 from Msgr. Robert Flock, within a criminal process initiated against a priest of the Diocese of San Ignacio de Velasco for allegedly raping a person, of legal age, who later declared to be the priest's partner, who was suspended and resigned from the clerical state. In the "testimonial" statement they interrogated the bishop for more than 5 hours, without allowing him the defense of a lawyer (because he was a witness) and taking his cell phone, warning him that if he did not provide the access code they could carry out raids and other actions against him.

Recommendations

31. The Bolivian government should review and modify Law No. 1161 and Supreme Decree No. 4054, as well as other administrative norms that regulate the registration of religious entities, in order to make both the process and the registration requirements of the different religious groups more flexible, so that the process does not become an obstacle for the development of their activities in the country.
32. The government should prioritize the effective application of public norms and policies aimed at prior consultation, territorial demarcation, land preservation and adequate use of the natural resources that are part of the territories of the native indigenous nations and peoples, in order to maintain or strengthen the spiritual relationship with their traditional owners.
33. In compliance with the human rights treaties and conventions signed by Bolivia, the government must include in the national legal system a regulation guaranteeing the right to conscientious objection to military service.
34. The government should repeal laws that impede the operation of religious educational or training centers. Similarly, the organs of the judiciary should consider the treaties and conventions on human rights signed by Bolivia when analyzing and issuing their rulings.
35. The government must comply with the standards of due process and the right to defense in all cases involving religious leaders.
36. The government should respect the autonomy, independence and freedom of expression of religious leaders and institutions, especially the Catholic Church, without generating unfounded accusations.