

Torture and the Right to Rehabilitation in BOLIVIA



Torture and the Right to Rehabilitation in BOLIVIA

WRITTEN BY:



TABLE OF CONTENTS

- 4** Introduction
- 6** Torture and ill-treatment in Bolivia
- 8** The situation for victims of torture and ill-treatment
- 10** The right to rehabilitation
- 11** Implementation targets
- 11** Member information
- 12** Notes and references

Cover Photograph

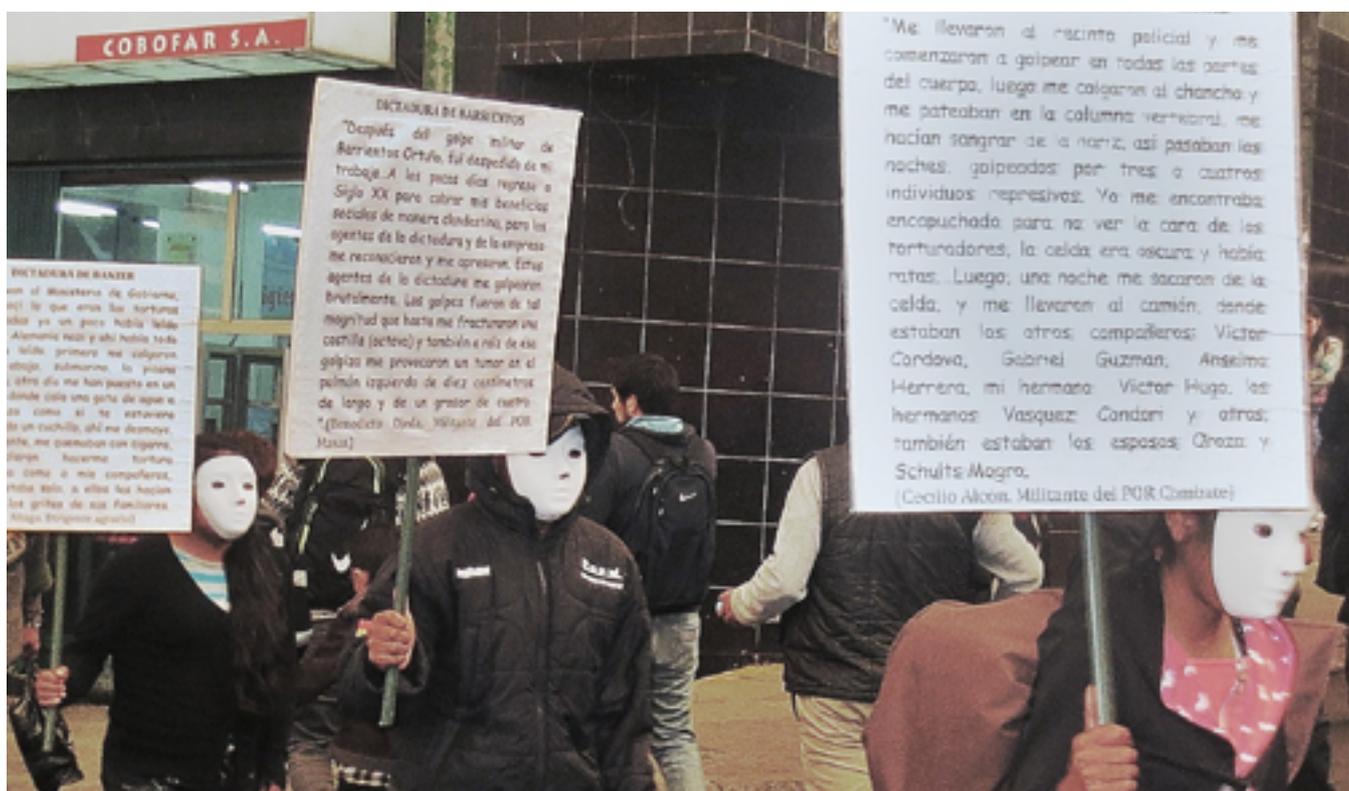
Soldiers saluting while the dia del mar in bolivia
© Shanti Hesse

INTRODUCTION

Bolivian history is rife with torture, massacres and other forms of organised violence by State agents. Pervasive human rights violations have been a feature of Bolivian life throughout all epochs of its history, including during the colonial time, in the Republic, during past dictatorships and during democratic governments. Dictatorship predominated between 1964 and 1981 with widespread abuses including enforced disappearances and the use of torture as a tool of political repression against leftist parties and trade unions. With the return of democracy, the use of torture as a repressive instrument has decreased but still persists today.

President Evo Morales Ayma came into power in 2006 and the new government initially expressed a willingness to fight torture and ill-treatment. For example, after the “Without Roofs” movement was violently repressed in 2006, Instituto de Terapia e Investigación sobre las secuelas de la tortura y la violencia estatal (ITEI) conducted an investigation into the events and documented the physical and psychological sequelae of torture and ill-treatment perpetrated against the victims.¹ As a result of ITEI’s report, a representative of the government requested to be informed of the outcome of the investigation. Furthermore, ITEI presented a public petition to the government, urging it to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which it duly did in 2006. In 2009, key international conventions, including the Convention against Torture (CAT), the OPCAT, and the International Convention for the Protection of All Persons from Enforced Disappearance, were integrated into the new Bolivian Constitution.

Protest against dictatorship in La Paz.
© courtesy of ITEI



Despite this initial willingness and formal commitment to eradicate torture, experience in recent years indicate that the Government may be less committed when words have to be turned into action. In 2007, the Ministry of Foreign Affairs contacted ITEI to request support on the introduction of an Anti-Torture bill and a bill for Prevention Mechanism against Torture. ITEI collaborated with two attorneys from the Ministry of Foreign Affairs and assisted the Ministry of Justice with the project. However, in 2010, when the anti-torture law and the law establishing a National Preventive Mechanism were introduced to parliament, it was lamentably never discussed or voted on.

During the first cycle of the Universal Periodic Review (UPR) in 2010, the UN Human Rights Council issued recommendations to the Bolivian State to include the prohibition of torture in domestic law and to bring perpetrators of torture and ill-treatment to justice.² Both recommendations were accepted, but not implemented. In 2014, at the second cycle of the UPR, Bolivia accepted the recommendation to reform the national preventive mechanism by guaranteeing full independence from the State and ensuring that it had sufficient financial, technical and human resources to perform its monitoring mandate effectively.³ In practice, however, the government never took the implementation of the recommendations seriously. The Servicio de Prevención de la Tortura (SEPRET) was established as national preventive mechanism on 30 December 2013 but is ineffective as it remains under the institutional control of the Ministry of Justice. SEPRET does not meet the requirements of a National Preventive Mechanism (NPM) under the OPCAT due to this lack of independence from the state.

Following the UPR recommendations of the UN Human Rights Council in 2014, ITEI, in collaboration with the OHCHR in Bolivia, organised a working group with other human rights organisations to promote the implementation of the recommendations. However, due to the lack of response from the government, they instead established a national “Coalition against Torture”⁴ (hereinafter, the Coalition) with eight organisations on 20 August 2015. Its aim is to implement national and international norms of prevention, investigation and sanction of acts of torture and ill-treatment. The Coalition prepared a submission on torture to be included in the new penal code and is planning on creating a common database to document cases of torture and ill-treatment. The Coalition aims to use the database from the Data in the Fight Against Impunity⁵ (DFI) project run by the International Rehabilitation Council for Torture Victims (IRCT), of which ITEI is a member, as a national database to document cases of alleged torture.

They instead established a national “Coalition against Torture”⁴ (hereinafter, the Coalition) with eight organisations on 20 August 2015. Its aim is to implement national and international norms of prevention, investigation and sanction of acts of torture and ill-treatment.

TORTURE AND ILL-TREATMENT IN BOLIVIA

Torture and ill-treatment continues to be used as a means of conducting investigations and as a form of intimidation against civil society by the police and armed forces in Bolivia. There is no state policy for the eradication of torture and no state official has been convicted for committing torture. The fight against torture fails most frequently in the areas of prevention and access to justice, which results in a climate of impunity.

The Bolivian Constitution prohibits all forms of torture, enforced disappearances, confinement, coercion or any form of physical or emotional violence. Although the Penal Code punishes torture, the code comes from the period of dictatorship and is not compliant with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). This law punishes torture with minimum penalties and to date no public official has been found guilty under it. Indeed, in its concluding observations from 2013, the Committee against Torture noted that Bolivia has not established a definition of the crime of torture that is in conformity with the Convention.⁶

“Grave acts of violence reflect a level of generalised violence in the army and the Bolivian police.”

– The Ombudsman

The most frequent perpetrators of torture and ill-treatment are members of the police and security forces. This happens with the permission of the district attorneys, under the concealment of the judges and governmental bodies. These acts have an extractive function: in order to

get information and/or a confession. The most frequent cases happen when persons are held in detention. In his 2015 report, the Office of the Ombudsman noted that the most frequent complaints of human rights violations came against the police, the municipal authorities of El Alto and the judiciary.⁷

The police or the specialised crime task force (Fuerza Especial Contra el Crimen - FELCC) often violently crackdown on civil society or social movements when they organise protests against the government. This repression is carried out in order to intimidate civil society and to break their will to carry on with protests. Indeed, even ITEI’s Director, Emma B Bravo, has been threatened as a reprisal for her work to end torture in the country.

Within the military, cases of torture and ill-treatment often happen through a system of punishment and intimidation to get submission and obedience. For example, in February 2011 Second Lieutenant Grover Poma was beaten and killed for refusing to fight another officer.⁸ In general, among the police and the military, as well as in the society (for instance in cases of lynching in community policing), there is a pervasive notion that torture and ill-treatment have an educative or corrective function to ensure the person does not repeat undesired behaviour. As an example, the Ombudsman observed this year at the Inter-American Commission on Human Rights in Washington DC that these “grave acts of violence reflect a level of generalised violence in the army and the Bolivian police.”

Torture and ill-treatment disproportionately affects people of low socioeconomic status as well as members of opposition social and political movements. In the army people of indigenous origin are often victims of acts of racism. Geographically, central cities like La Paz, Cochabamba and Santa Cruz are more affected by torture than others.

In Bolivia, the presumption of innocence does not exist in practice, even though it is guaranteed by the law. An arrested citizen is liable to suffer from torture and ill-treatment in large part due to the investigative inability and incompetence of the police and judiciary, who are obsessed with finding culprits at all costs. Indeed, the police and judiciary operate under the mantra of “if the person is innocent, bad luck.” This is illustrative of a worrying reality in Bolivia, namely, the ubiquity of torture throughout Bolivian society making it trivial in the eyes of many, but at the same time continuously denied by the State.

“From the 2557 cases, women were affected in 1142 cases and children or teenagers in 601 cases.”

– The Ombudsman

In 2014, the Office of the Ombudsman registered a total of 2557 cases in which the right to personal integrity was violated. These cases covered crimes of torture and ill-treatment and other forms of violation of personal integrity. The Ombudsman stated that “this is the highest number during the administration and exceeds the reported 1222 cases in 2013, by more than 100 percent. From the 2557 cases, women were affected in 1142 cases and children or teenagers in 601 cases. This law is becoming one of the four most violated during my administration.”⁹

The figures presented by the Office of the Ombudsman are important indicators of the current human rights violations in Bolivia. The statistics, however, does not disaggregate the cases classified as torture and ill-treatment and cases that fall under cruel, inhuman or degrading treatment or punishment. Moreover, it must be noted that these are the reported cases brought to the attention of the Ombudsman. ITEI and the Permanent Human Rights Assembly have documented many more cases that are not registered at the Office of the Ombudsman. With the help of the Coalition against Torture and the collaboration with the DFI database, ITEI will operationalise the use of accurate data to present more cases of torture and ill-treatment in 2016.

At the moment the Coalition is supporting the case of Juan Bascopé who is a beekeeper and leader of a peasant movement from Mapiri. Juan was arrested on 17 July 2014 as the prime suspect in the ‘Apolo Case’ where three police officers and a doctor were killed in the community of Miraflores in Apolo. Upon his arrest, Juan was tortured and ill-treated for a period of three days and was brought before a judge on 20 July 2014, a mere three days after his initial arrest, and sentenced for the murders of three police officers and the doctor. He remains in prison but has filed a complaint of torture. He was provided with a medical examination by a prison doctor who, despite the visible contusions, dismissed the allegations of torture. Juan is represented by lawyers from Derechos en Accion, supported by the Coalition, and is waiting for the judge to formally close the case of his complaint so the case can be brought before the Inter-American Court of Human Rights. In 2015, Amnesty International publicly condemned the Bolivian authorities’ treatment of Juan Bascopé and wrote to the Attorney-General of the State, Ramiro Guerrero, asking what steps are taken to progress in the investigation but did not receive a response. In March 2016, Amnesty International publically requested information from the Bolivian government about the acts of torture against Juan Bascopé.

Furthermore, on 24 May 2008, a movement of citizens and students coordinated by the Inter-institutional Committee of Sucre, under the leadership of the Rector of the University, violently repressed the peasants of the indigenous Quechua population in Sucre for protesting the lack of ambulances and health services in their regions. ITEI, with the help of UN funding, provided rehabilitation to the affected communities and produced a publication titled “De la Humillación a la Denuncia”, concerning the psychological and physical sequelae, which was used in the judgement against the perpetrators. Again, no help or assistance came from the government. In March 2016, 13 of the 14 accused perpetrators were sentenced to six years of prison for being responsible for the aggression and humiliation of hundreds of indigenous people and were. Reparations have not yet been decided.

THE SITUATION FOR VICTIMS OF TORTURE AND ILL-TREATMENT

The most frequent effects of torture and ill-treatment on victims is a feeling of powerlessness and defencelessness in the face of the arbitrary use of power. The issue of survival becomes acute. Victims who come from poor socioeconomic backgrounds cannot afford an attorney. Even if a lawyer dares file a claim against the perpetrators of torture, he risks being threatened by the State. For instance, the Guaraní communities in Alto Parapeti¹⁰ who lived in conditions of slavery and were tortured when they fought for their liberation in 2008, gave up their claim against their ex-landowners due to threats, delays and insufficient financial resources.

The victims ITEI documents in prisons seldom have the strength to fully carry out a complaint against perpetrators. However, for many victims just being able to discuss their ordeal to someone willing to listen is an important rehabilitative step. The medical and psychotherapeutic documentation that ITEI provides offers the victims an element of security in a context of arbitrariness and silence of what are happening to them. The ability to speak about what they have lived through gives them a sense of empowerment and to better confront their situation. One of the aims of the Coalition is to encourage and support more victims to denounce and complain against perpetrators

of torture. The psychological evaluation in the Istanbul Protocol¹¹ can have a significant rehabilitative value as a therapeutic tool on the victim of torture. This is particularly the case when the victim of torture accuses their perpetrator and the victim is able to personally articulate the detrimental impact of torture on their daily lives. For people who feel vulnerable, but have not given up and have some confidence to speak with a professional, a psychotherapist who respects their confidentiality is a significant step in their road to rehabilitation.

In cases of torture in detention, the primary problem is generally a financial one. Detainees lose what little money they have to fund a lawyer. Finding a lawyer who will diligently and competently take up human rights cases is extremely difficult in Bolivia. While the law requires doctors in prisons to examine inmates at arrival and departure from the facilities, in practice, the right to medical examination is not guaranteed.

Examinations following torture allegations are not always immediate. Furthermore, they are performed by the Institute of Forensic Investigations (Instituto de Investigaciones Forenses - IDIF), which is subordinate to the Ministry of Justice and therefore lacks the required independence. Due to the shortages of funding, the IDIF requires the victims to cover the costs of their medical examinations. Most forensic doctors and medico-legal professionals claim to know the Istanbul Protocol but fail to apply it. There is no system to monitor or evaluate the quality and effectiveness of these medical examinations.



Informational posters on the occasion of the UN International Day in Support of Torture Victims, 26 June.

© courtesy of ITEI

Victim Stories

Case of Chúa: In September 2014, ITEI conducted a psychological evaluation at the request of the Office of the Ombudsman. This evaluation was conducted on eight students (men and women) out of a sample of 81 students from the Tupac Katari Aymara Indigenous University, who had filed a complaint of torture and ill-treatment against the Bolivian army to the Ombudsman.¹²

The Vice-President of the University ordered students (44 women and 37 men) of the Faculty of Veterinary Sciences to do military exercises for one day. This was meant as a punishment measure because of their behaviour and was agreed with the military hierarchy. At 6am on 3 September 2014, the students were brought to the Marine Battalion in Chúa. During the day, they had to do exercises that were accompanied by insults, shouts, threats, and obscene comments against the women, who had to sing degrading sexist songs, repeating the words of an officer. They jeopardised the students' health as they had not undertaken a medical military inspection. Two women fainted and another had to be brought to hospital the following day. The fear of sexual abuse had been latent throughout. But the worst thing occurred after 9 pm in darkness: after the exercises, several students were beaten in sensitive parts of their bodies, they were kicked, the recruits walked over the students' bodies and several women were groped. All of them were exposed to the excessive and dangerous use of tear gas. The students were threatened with death by the use of dynamite while the soldiers played funeral music. The officers said, "Let's go to the cemetery".

The students found themselves in a world of arbitrary omnipotence in which the only salvation was being submissive. The Vice-President and the military hierarchy were taking advantage of the fact that the students were not aware of their rights, threatening them by saying that they would not pass their exams if they did not engage in the military exercises.

The evaluation conducted by ITEI exposed these facts and highlighted the impact on eight students and was read out loud to all of the 81 students. Finding the right words to explain what has happened had a therapeutic function because they had to recount their suffering and, importantly, they recognised that they were not insane. It was formulated and written down. They felt "rehabilitated" with the help of their complaint. The act of sharing collectively what they had experienced helped them to confront and assume publically the humiliating situation of impotence and to surmount the shame they had. The psychological evaluation was a public recognition of what they were exposed to and suffered from. It became a tool to explain what had happened to their families, their communities and to the administration of the University. At the time of writing, the students and their parents have received acknowledgement of their accusations and managed to have the Vice Rector dismissed.

Finding the right words to explain what has happened had a therapeutic function because they had to recount their suffering and, importantly, they recognised that they were not insane...They felt "rehabilitated" with the help of their complaint.

THE RIGHT TO REHABILITATION

The Penal Code contains some provisions for reparations to victims of judicial error, but there is no specific mention of victims of torture. The Penal Code further includes victims of torture into the provisions for the rehabilitation of the innocent and convicted by a miscarriage of justice. However, these do not specifically focus on the needs of torture victims and are generally not implemented.

A reparations programme, including compensation and rehabilitation, has been created for victims from torture during the dictatorships. However, recognition of victims has been very restrictive, reparations provided have been limited to financial compensations and very little of this has actually been paid out.

ITEI is the only institution specialised in providing holistic rehabilitation services, primarily psychological and medical rehabilitation.

For victims of more recent abuse, there are no programmes or services provided by the government and there are no initiatives to train the relevant professional groups in how to deliver adequate services to torture victims. This increases victims' mistrust in the Government, which discourages them from seeking support. ITEI is the only institution specialised in providing holistic rehabilitation services, primarily psychological and medical rehabilitation. For example, the victims in the Guarani communities in Alto Parapetin 2008 mentioned above received no rehabilitation support from the State. ITEI worked in the Guarani communities rehabilitating the victims for three years. After the massacre against peasants in the Department of Pando in September 2008, the government provided early medical interventions by transporting people

to La Paz to protect them from more violence, but there was no effort to investigate the crimes. Again, it was ITEI who went to the affected communities to engage in rehabilitation work.

ITEI has one office in La Paz consisting of one physician and three psychologists. Due to capacity issues, the services provided by ITEI are insufficient to meet the large demand and all the needs of torture victims across the country. While ITEI's office in Cochabamba closed in 2015 due to funding constraints, ITEI still seek to intervene in other cities and regions affected by torture, including El Alto, Chuquisaca departments, Pando, Oruro, in the region of Alto Parapetí (department of Santa Cruz). ITEI receives funding from the UN Voluntary Fund for Victims of Torture, the OAK Foundation, the La Luz Fund and the European Association of Sustain ITEI (AESITEI).

There are no public figures on the numbers of psychologists and psychiatrists in the country but in most mental health professionals are based in the cities where there are universities. In the countryside and rural areas of Departments of Chuquisaca, Pando and Santa Cruz, where ITEI works with victims there are no mental health professionals. ITEI has provided a programme of adult education on mental health in two of these regions with a particular emphasis on the issue of confidentiality, as this is not always respected. In Pando, nurses at the public hospitals and health centres joined the education, although the physicians did not attend. ITEI takes strong precaution and preventative measures to ensure the confidentiality, safety and security of the ITEI's clients and their families.

Access to ITEI's services depends on the circumstances of the individual person, their family or community. In some cases, ITEI is able to provide financial support in order for the victim to reach the services. The time it takes for victims to access ITEI's services also depends on where they live or where the torture and ill-treatment took place. For victims in or near La Paz, ITEI is able to intervene promptly but for victims beyond it largely depends on capacity and available funding.

IMPLEMENTATION TARGETS

The right to rehabilitation

IN ORDER TO FULFIL ITS INTERNATIONAL LEGAL OBLIGATIONS UNDER THE RIGHT TO REHABILITATION, THE BOLIVIAN STATE SHOULD:

- Establish a legal provision that guarantees rehabilitation as a form of reparation of torture and ill-treatment
- Establish a rehabilitation programme to support specialised services for victims of torture.
- Conduct a country-wide survey to identify the number of victims and their needs for rehabilitation
- Provide financial support for the rehabilitation of victims of torture.
- Train psychologists, psychiatrists, doctors and lawyers in the area of psycho-traumatology .
- Provide trainings and promote the Istanbul Protocol among health professionals, lawyers, judges and the armed forces.

Mental health in remote and rural areas

- In communities located far from the urban centres ITEI will work to establish a network of elected mental health promoters from among the members of the community, who will liaise with ITEI and receive training in identifying signs of trauma and mental health conditions.

Armed forces

- The Government and the armed forces should establish complaints procedures for members of the armed forces to be able to complain about torture and ill-treatment by other army personnel.
- Members of the armed forces who have been tortured or ill-treated must also have a right to receive medical and psychological treatment in full medical confidentiality.

Education and awareness raising

- Qualified Diplomas and Master's programmes for the rehabilitation of victims of torture and ill-treatment need to be established in Bolivia.
 - ITEI will continue in its effort to raise awareness on the right to rehabilitation among civil society and the Bolivian state.
-

Detention

- The government should establish independent, multi-disciplinary teams near prisons with the right to conduct regular unannounced visits and to receive complaints from prisoners.
-

MEMBER INFORMATION

ITEI is the only institution that provides medical and psychological rehabilitation for victims of torture and State violence. ITEI aims to contribute to the prevention of disorders caused by torture and state violence by providing integral psycho-therapeutic, medical, social and judicial assistance to victims, their families and their communities by assisting victims of torture in jails and holding centres, survivors of massacres, victims of political repression, victims of torture, political prisoners; political refugees, formerly exiled citizens, family members of detained, disappeared or killed, and family and community members of these groups. Through training, research and reporting, ITEI strives to create public awareness about the psychosocial consequences of these practices and their eradication. ITEI also intervenes in legal cases with medical and psychological documentation.

Notes and references

¹ ITEI, La Atención del IEI a las Personas Afectadas por la Represión al Movimiento sin Techo en Oruro, 2006. Available at: <http://www.itei.org.bo/wp-content/uploads/2016/05/Informe-Sin-Techo-ORURO-2006.pdf>

¹ ITEI, La Atención del IEI a las Personas Afectadas por la Represión al Movimiento sin Techo en Oruro, 2006. Available at: <http://www.itei.org.bo/wp-content/uploads/2016/05/Informe-Sin-Techo-ORURO-2006.pdf>

² For documentation relating to the first cycle of the Universal Periodic Review, please see <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BOSession7.aspx>

³ For documentation relating to the second cycle of the Universal Periodic Review, please see <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BOSession20.aspx>

⁴ http://www.la-razon.com/seguridad_nacional/Convenio-crean-Coalicion-contr-la-tortura-0-2330167017.html

⁵ <http://www.ircct.org/our-work/our-projects/dfi.aspx>

⁶ Committee against Torture, Concluding Observations on the second periodic report of the Plurinational State of Bolivia, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fBOL%2fCO%2f2&Lang=en

⁷ Annual Report to the Legislative Assembly of the Plurinational State of Bolivia http://www.defensoria.gob.bo/archivos/InformeASLEG_2014_7_baja.pdf

⁸ <http://www.paginasiete.bo/sociedad/2015/8/21/tres-acusados-matar-grover-poma-reciben-anos-carcel-67350.html>

⁹ Annual report to the Plurinational Assembly http://www.defensoria.gob.bo/archivos/InformeASLEG_2014_7_baja.pdf

¹⁰ Captive Communities: Situation of the Guaraní Indigenous People and Contemporary Forms of Slavery in the Bolivian Chaco, Inter-American Commission of Human Rights, Organization of American States, 24 December 2009. Available at <https://www.oas.org/en/iachr/indigenous/docs/pdf/CAPTIVECOMMUNITIES.pdf>

¹¹ The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (commonly known as the “Istanbul Protocol”) was adopted by the UN General Assembly in 1999.

¹² http://www.la-razon.com/seguridad_nacional/Universitarios-denuncian-torturas-cuartel-Chua-0-2121987818.html


IRCT

Vesterbrogade 149, building 4, 3rd floor, 1620
Copenhagen V · Denmark
irct@irct.org

ITEI

Av. 6 de Agosto No. 2006
Edif. V Centenario Piso 1 Of. 1-A
Casilla de correo 08165
La Paz · Bolivia
Telephone. +591 2911916
Phone/Fax: +591 2154094
info@itei.org.bo
itei.org.bo