

# Women's Reproductive Rights in Bolivia: A Shadow Report

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WOMENS REPRODUCTIVE RIGHTS IN BOLIVIA: A SHADOW  
REPORT

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## **I. Introduction**

The purpose of this document is to supplement, or “shadow”, the report presented by the government of Bolivia to the Committee on Economic, Social and Cultural Rights. It was compiled and written by the Oficina Jurídica para la Mujer [Women’s Law Office] of Cochabamba, Bolivia, a member of the Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM), and edited by the Center for Reproductive Law and Policy (CRLP), headquartered in New York City. The members of the Committee have determined that non-governmental organizations (NGOs) such as those mentioned above can play a crucial role in providing independent and reliable information on the legal status and daily life of women and the efforts made by member states to comply with the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR). In addition, if the Committee’s recommendations are firmly rooted in the reality of women’s lives, the NGOs can use these recommendations to pressure their governments into enacting or implementing changes in laws and policy.

Discrimination against women exists in all societies and requires that urgent measures be implemented. The primary focus of this report is the sexual and reproductive rights recognized at conferences such as the International Conference on Population and Development held in Cairo in 1994 and the Fourth World Conference on Women held in Beijing in 1995. The report discusses the laws and policies related to these rights and the factors that affect women’s ability to exercise these rights in Bolivia.

Discriminatory legal standards, policies, and practices persist in all aspects of daily life in Bolivia. These affect women and expose them to serious risks and disadvantages. The persistence of cultural prejudices and legal standards that restrict women’s rights, in the public as well as the private sphere, expose women to serious violations of their human rights on a daily basis. In light of this reality, this report calls on Bolivia to meet its obligation to respect, protect, and guarantee women’s human rights as recognized by the ICESCR.

This report was written by Julieta Montaña of the Oficina Jurídica para la Mujer with input from the Oficina Jurídica para la Mujer team and the assistance of Ivonne Agreda. Cristina Cardozo provided a general review. Luisa Cabal and Mónica Roa of CRLP edited and reviewed this report with assistance from Corinne Nakamoto and Purvi Mehta and comments by Katherine Hall Martínez and Julia Zajkowski.

**April 2001**

## **II. Principle Points of Concern**

### **Women's Rights to Reproductive Health Care (Articles 10, 12, and 15(1)(b) of the ICESCR)**

#### ***Maternal Mortality***

Bolivia has the highest rate of maternal mortality in Latin America and the Caribbean (416 per 100,000 live births), with the exception of Haiti. A great disparity exists between the urban maternal mortality rate (274 per 100,000 live births) and the rural rate (524 per 100,000 live births). Bolivia has the lowest prevalence of prenatal care in the region (52%) and the third lowest number of deliveries attended by qualified personnel (46%), after Haiti (20%) and Guatemala (35%).

#### ***Cervical-Uterine Cancer***

Sexual and reproductive health care policies and programs continue to focus on maternal health, to the detriment of other aspect of women's health. In addition, only 10% of Bolivian women of childbearing age have access to cervical cancer screening, making this type of cancer one of the primary causes of mortality among women. The government should promote the prevention and early detection of this cancer.

#### ***Contraception***

Although it is important to highlight the expansion of available contraceptive methods, it is vital that the government do a careful follow-up of the implementation and application of the Voluntary Surgical Sterilization Regulation to safeguard the users' rights and to ensure their free and informed consent. In addition, there continues to be insufficient access to family planning services and information in Bolivia. Efforts should be made to improve the channels of information and to increase coverage for these services.

#### ***Abortion***

It is estimated that 30,000 to 40,000 clandestine abortions took place in Bolivia in 2000. Instead of reducing the number of abortions, the criminalization of the practice of abortion contributes to Bolivia having one of the highest rates of maternal mortality in Latin America, thereby violating women's human rights to life and health. Despite the fact that for the past 26 years the Penal Code has made some exceptions to the restrictive abortion law, under which it is possible to receive judicial authorization to obtain access to abortion services, as of 1999, only one legal abortion had ever been performed in Bolivia.

It is crucial to develop and implement clear procedures for providing abortion services in those cases where abortion is permitted by law. The failure to provide this service to women, including adolescent victims of rape, is a violation of their reproductive rights.

#### ***Adolescents***

The high incidence of adolescent pregnancies requires that more attention be given to sexual education and counseling. More Bolivian women between the ages of 20 and 24 have engaged in sexual intercourse before the age of 20 (57%) than in any other Latin American country, including Brazil (50%) and Colombia (50%). It is disturbing that only 1.6% of adolescents between the ages of 15 and 19 use modern family planning methods, thus increasing the number of unwanted pregnancies and exposure to sexually transmissible infections, including HIV/AIDS.

### **HIV/AIDS**

Despite the fact that Bolivia has a low incidence of HIV/AIDS, indifference to this disease and a lag in the introduction of prevention strategies is worrisome. Moreover, an increase in female infection is becoming more evident. From 1988 to 1990 there was one infected woman for every five men, but in 1998 the ratio was one infected woman for every two men.

### **Family Relationships, Including Equality Between Spouses (Article 10 of the ICESCR)**

Notwithstanding the principle of spousal equality in force, discriminatory provisions in the Family Code still exist. For example, a husband can request that his wife be restricted or prohibited from practicing a certain profession or occupation for reasons of morality or when her social function in the home is seriously impaired as a result.

### **The Right to Equitable and Favorable Working Conditions (Articles 6, 7, and 10 of the ICESCR)**

In the area of labor, it is a matter of concern that women receive an average income of 50% that of men, regardless of age, activity, occupation, and level of education.

Domestic workers, made up primarily of women from rural areas, represent 12.9% of women engaged in nonsalaried domestic labor. Their basic labor rights æ such as minimum wage, social security, reasonable limitation of working hours, and job stability in cases of maternity æ are denied.

## **III. Women's Rights in Bolivia Pursuant to the Relevant Provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR)**

### **A. Women's Right to Reproductive Health Care: Access to Reproductive Health Care and Family Planning Services, including Safe and Legal Abortion (Articles 10, 12, and 15(1)(b) of the ICESCR)**

Article 12 protects the right of all persons to enjoy the highest attainable standard of physical and mental health. This article is complemented by Article 15(1)(b), which grants all persons the right to benefit from the advances of scientific research and its applications. Under this provision, women are entitled to enjoy advances in research in the reproductive health field. Article 10 grants special protection to pregnant women before and after delivery as well as to adolescents and children.

The Committee on Economic, Social and Cultural Rights (hereinafter "the Committee") has recognized in its General Comment 14 the right to "control one's health and body, including ... reproductive freedom."<sup>1</sup> In its General Comment 14, the Committee also acknowledged "a need to develop and implement a comprehensive national strategy for promoting women's right to health throughout their life span"<sup>2</sup> including in the area of reproductive health.<sup>3</sup>

These provisions require governments to make reproductive health, family planning, and safe motherhood services and information accessible to women. Without these services, women and adolescents may have undesired pregnancies, potentially resulting in death or illness because of a lack of adequate maternal health care. This Committee has expressed its concern over the health of

pregnant women, particularly with respect to high rates of adolescent pregnancies and maternal mortality.<sup>4</sup> It has also advised states parties to review health policies, suggesting particular attention be given to the issues of adolescent pregnancies and maternal mortality, including reducing the incidents of deaths caused by illegal abortions.<sup>5</sup>

## **1. Access to Reproductive Health Services and Family Planning Services**

### **Laws and Policies**

One of the fundamental rights recognized by the Bolivian Political Constitution is the right to health,<sup>6</sup> this being understood as a public asset.<sup>7</sup> The state has the duty to safeguard the health of the individual, the family, and the population in general.<sup>8</sup> Public health care policies are defined by the Ministry of Human Development through the National Office of Health,<sup>9</sup> which has, among other duties, the responsibility to “formulate, implement and fund health care policies and programs, including preventive, protective and rehabilitative measures to preserve health, and nutrition, sanitation and hygiene.”<sup>10</sup>

The new policies formulated by President Hugo Banzer’s government for the president’s five-year term within the framework of the 1999-2000 General Plan for Economic and Social Development have resulted in new guidelines and strategies for the health care system in Bolivia. Four fundamental pillars that govern the policies in the various sectors including health care frame this plan æ opportunity, equality, institutionalization and dignity.<sup>11</sup> Reforms were presented in this area in order to continue with the decentralization of the health care system, and the Basic Health Insurance Program was created, which included sexual and reproductive health care services.<sup>12</sup> In turn, the Strategic Health Care Plan, approved in 1998, contains the guidelines for technical administrative matters, financing, provision of services, intersectorial actions, social management, and legal issues related to the health care system.<sup>13</sup> This plan recognizes sexual and reproductive health care interventions as fundamental elements in the reduction of maternal mortality.<sup>14</sup> Furthermore, the Bolivian Standard of Health Care for Women and Newborns regulates safe pregnancy services in primary, secondary, and tertiary level hospitals and in the maternity centers, departmental hospitals, health care posts, health care centers, and district hospitals.<sup>15</sup>

The primary objective of the public health policy is contained within the “Pillar of Equality,” in which the instrumental policies of the sector are established with a view toward improving access to reproductive health care services, “reaffirming the woman’s decision regarding her sexuality and free will regarding reproduction.”<sup>16</sup> Specialized programs of sexual and reproductive health care include: the Program for the Comprehensive Care of Women, the National Program for Sexual and Reproductive Health Care,<sup>17</sup> and the Program for the Comprehensive Care of Schoolchildren and Adolescents.<sup>18</sup>

Bolivia implemented the recommendations found in the Cairo and Beijing conference documents by adopting the 1999-2002 National Program for Sexual and Reproductive Health Care as the instrument for policy and program orientation in the area of sexual and reproductive health care.<sup>19</sup>

## **Reality**

### ***Investments and Infrastructure in Health Care***

In Bolivia, the per capita cost of government spending on health care is \$7 to \$8, while the average in Latin America for health care is between \$12 and \$13.<sup>20</sup> It is estimated that for 1998, public expenditures on health care as a percentage of the total gross domestic product totaled 1.1%.<sup>21</sup> There were a total of 2,492 health care establishments registered as of 1998, 91% of which make up part of the primary network (health care posts and centers), 6% the secondary network (district hospitals), and 3% the tertiary network (general hospitals and specialized institutions).<sup>22</sup>

It is estimated that in 1998 there were 1.7 hospital beds available for every 1,000 inhabitants.<sup>23</sup> Of the total specialized physicians that make up part of the Public Health Care Services, 80% are located in the urban areas of the country and are part of the tertiary network, leaving a broad sector of the rural population without any coverage.<sup>24</sup> In 20% of Bolivia's 311 municipalities, health care is the responsibility of the local community because there is no qualified health care personnel in these communities.<sup>25</sup>

### ***Maternal Mortality***

Bolivia has the highest rate of maternal mortality in Latin America and the Caribbean (416 per every 100,000 live births),<sup>26</sup> excluding Haiti (600 per every 100,000 live births).<sup>27</sup> According to the official government report to the Committee on Economic, Social and Cultural Rights, the rate of urban maternal mortality was 274 per every 100,000 live births and the rural rate was 524, with the average remaining constant at 416 deaths per every 100,000 live births.<sup>28</sup> The great regional disparity in the area of maternal mortality is also a matter of concern. The rate in the Altiplano is estimated at 602 deaths per 100,000 live births, which is more than double the rate in the valleys (293) and almost six times the rate in the plains region (110).<sup>29</sup>

The main causes of maternal mortality are hemorrhage, toxemia, infection, and obstructed delivery. Abortion-related causes account for an estimated 27% to 35% of maternal mortality.<sup>30</sup> Although it is estimated that maternal mortality is higher at home than in the hospital (four to six times higher), hospital mortality continues to be very high (115 per 100,000 live births).<sup>31</sup>

### ***Maternal and Infant Care***

Bolivia has the lowest prevalence of prenatal care in the region (52%) and the third lowest number of deliveries attended by qualified personnel (46%), after Haiti (20%) and Guatemala (35%).<sup>32</sup>

While approximately 73% of the women in urban areas and 25% of those in rural areas seek health care services at the time of delivery, 25% of urban area women and 72% of rural area women prefer to remain at home and have their deliveries attended by traditional midwives (96%) or by relatives and friends (57.1%).<sup>33</sup>

Studies show that the health services' reputation and quality of services are generally poor. Even where there is client demand for modern health care services, the institutional response continues to be deficient, insufficient, and/or ill timed. Waiting times, physical or verbal abuse, rejection, lack of information, many hours of separation from relatives before and after hospital deliveries, soiled sheets and blankets, decaying or foul-smelling bathrooms, and lack of emotional support are factors present in the institutions that affect the users' decision to not use the public health care system.<sup>34</sup>

### ***Cervical-Uterine Cancer***

Another serious issue is that the Basic Health Insurance Program has not yet incorporated the Pap smear (a test for the detection of cervical-uterine cancer) in its plan, despite the fact that the test is simple, inexpensive, and easy to obtain.<sup>35</sup> This test is a major component in ensuring women's health, especially considering that cervical-uterine cancer causes 25% of deaths among women.<sup>36</sup> La Paz has a rate of 154 cases per every 100,000 women between the ages of 35 and 64, which is much higher than the rate of 66 cases per every 100,000 women in São Paulo, Brazil, and 20.7 cases per every 100,000 women in Connecticut, United States of America.<sup>37</sup>

### ***Adolescent Reproductive Health Care***

The elevated indices of adolescent maternity point to the lack of sexual education and the need to pay greater attention to reproductive health care needs. This problem primarily affects those adolescents who live in rural areas and those with lower levels of education. The surveys show the dimensions of this reality: in 1998, 14% of women between the ages of 15 and 19 had either been pregnant (12%) or were then pregnant for the first time (2%).<sup>38</sup> Of the adolescents who are mothers or who are pregnant, 52% have had no formal education.<sup>39</sup> Moreover, 22% of pregnant adolescents live in rural areas compared to 11% of pregnant adolescents in urban areas.<sup>40</sup>

One of the causes of the high rate of pregnancy among adolescents is their low rate of contraceptive use. In 1998, 92% of women between the ages of 15 and 19 knew of some contraceptive method, but only 30.7% of adolescent women in a sexual relationship were using a method.<sup>41</sup>

## **2. Contraception**

### **Laws and Policies**

The Bolivian government has expressly established that the dissemination of information regarding reproductive health care and the promotion of contraceptive methods, as well as support for family planning services<sup>42</sup> are part of its population policies. Although the right of all people to make decisions freely regarding their sexuality and fertility is recognized and respected, abortion is expressly prohibited as a method of family planning.<sup>43</sup>

### **Reality**

Despite the fact that dissemination of information about family planning and the distribution of contraceptive methods are legal, statistics from 1998 indicate that only 48% of women in sexual relationships were using contraception. Of these women, 25% were using modern methods and 22% were using traditional methods.<sup>44</sup>

Contraceptive use is more prevalent among women with higher levels of education (65%) and those who reside in urban areas (62%). Lower levels of contraceptive use are found among women who reside in rural areas (30%) and among those with lower levels of education (19%).<sup>45</sup> The greatest factor in determining the percentage of contraceptive use was the level of education: 65% of women with intermediate or advanced levels of education reported using contraception, but only 20% of women without any formal education had used a contraceptive method, most often a traditional one.<sup>46</sup>

One problem with the Basic Health Insurance Program is that the distribution of contraceptive methods is not subsidized, which leaves a population with a very high and unmet demand for family

planning unprotected.<sup>47</sup> In this context, the private sector in Bolivia plays an important role in the provision of contraceptives, covering 56% of users of modern family planning methods, according to statistics from 1998. The public sector, on the other hand, increased its coverage from 33% to 42% in 1994.<sup>48</sup>

In the area of family planning counseling, great deficiencies still exist. One study conducted in 1998 found that in contrast to the private sector, public health care centers do not offer counseling on contraceptive methods.<sup>49</sup>

The Ministry of Health has not issued norms regulating the availability of emergency contraception in the public health care services. This type of contraception thus is not offered by the state health care services although it may be obtained in pharmacies and private clinics, and there are no prohibitions regarding its importation.<sup>50</sup>

### **3 Abortion**

#### **Laws and Policies**

In Bolivia, abortion is classified as a felony in the Penal Code, which penalizes whoever “causes the death of a fetus in the mother’s womb or provokes its premature expulsion.”<sup>51</sup> Abortion is not illegal when the pregnancy is the result of rape, abduction for sexual purposes not followed by marriage, sexual abuse of an adolescent by means of deceit, incest,<sup>52</sup> or when the life of the mother is at serious risk and it cannot be avoided by any other means<sup>53</sup> (therapeutic abortion).<sup>54</sup> The law requires the victim to initiate the respective criminal action<sup>55</sup> and obtain a judge’s authorization<sup>56</sup> when abortion is the consequence of these situations. The Penal Code establishes sanctions both for the woman who “gives her consent” to an abortion<sup>57</sup> as well as for the person who performs the procedure with or without the woman’s approval.<sup>58</sup>

The practice of abortion in the cases permitted by law requires that it be performed by a physician with the woman’s consent.<sup>59</sup> In 1999, guidelines were approved to include the treatment of “hemorrhage during the first half of pregnancy” (post-abortion care) in the Basic Health Insurance package.<sup>60</sup>

#### **Reality**

##### ***Unsafe Abortion and Maternal Mortality***

The criminalization of abortion constitutes one of Bolivia’s main public health problems due to the high incidence of maternal mortality as a result of unsafe abortion and the hospital costs for treating complications from unsafe abortion.<sup>61</sup> Taking into account that not all abortion cases are admitted to public health care centers, but rather some are seen at private hospitals, the estimated number of clandestine abortions performed in the country in 2000 was between 30,000 and 40,000.<sup>62</sup> It is estimated that 27% to 35% of maternal deaths are due to abortions performed under conditions of risk.<sup>63</sup> The Association of Gynecology and Obstetrics of Bolivia estimates a rate of 60 deaths per every 10,000 abortions.<sup>64</sup> Pursuant to the data provided by the Health Information Service, cases of incomplete abortion have been increasing over the last four years, and this trend appears to be continuing.<sup>65</sup>

Of the total cases of incomplete abortions that are admitted, it is difficult to determine which were induced, since the women generally attribute the event to falls or carrying excessively heavy loads. However, it is well known that some women purposefully fall, carry heavy loads, or otherwise endanger themselves in order to cause a miscarriage. Other women resort to *mates* and herbs that induce abortions.<sup>66</sup>

Most women who arrive at the public health care centers with abortion complications are low-income and do not have access to adequate and appropriate medical services. Therefore, when faced with an unwanted pregnancy, they resort to seeking an abortion from untrained and/or unethical providers.<sup>67</sup>

#### ***Post-abortion Care***

Complications resulting from incomplete abortions (referred to as “hemorrhages during the first half of pregnancy” in the applicable guidelines) are treated at health care centers or hospitals covered by the Basic Health Insurance Program, but this benefit has not adequately helped rural women and women living in urban outskirts due to cultural factors and abuse at the hands of health care providers.<sup>68</sup>

#### ***Access to Legal Abortion***

Though the Penal Code establishes the circumstances under which a judge can authorize of a legal abortion, the process is burdensome and degrading to the woman. In some cases, this is because judicial authorities resist granting the authorization, and in others it is because public health care service physicians (who are responsible for complying with the judicial orders are resistant and so use various pretexts as arguments against granting the authorization.<sup>69</sup> Women rarely seek out this process because the judges often deny their authorization even when all the requirements for a legal abortion have been met.<sup>70</sup> Until 1999, only one legal abortion had been performed in Bolivia, despite the fact that the Penal Code provision that provides for exceptions has been in effect for 26 years.<sup>71</sup> Faced with this reality, those women who are pregnant as a result of rape and wish to terminate their pregnancies find that their only alternatives are to continue the pregnancy or resort to clandestine procedures that endanger their lives.

## **4 Sterilization**

### **Laws and Policies**

Voluntary surgical sterilization was regulated for the first time in 1998. These new standards require that this procedure<sup>72</sup> encompass the following steps: adequate counseling for the woman or the couple, the woman's informed choice, her express written consent, a preparatory medical evaluation, systematized steps for the surgical procedure, a postoperative evaluation, follow-up orientation, written instructions, and the identification of the danger signs of postoperative complications that require immediate attention.<sup>73</sup>

### **Reality**

Data are still not available to evaluate the application of the new standard, and it is difficult to access official information regarding the number of cases of tubal ligation performed due to reproductive risk factors.<sup>74</sup> The state should have updated information on the subject, especially since it is a sensitive issue for certain ethnic groups that, because of their cultural values, are reluctant to admit that some of their members have used sterilization as a means of contraception. It is necessary, therefore, that the government study the implementation of the new standard.

The requirements for access to this service are unclear. Officially, only a request for surgery signed by

the patient is needed, but in practice, authorization by a close relative such as the applicant's spouse is also required.<sup>75</sup> During a recent visit to the Germán Urquidí Maternal Infant Hospital, the informed consent form referred to in the Voluntary Surgical Sterilization Regulation was not available,<sup>76</sup> and the form giving the patient's authorization for the medical staff to practice *all necessary exams* was substituted.<sup>77</sup> During that same visit, observers found that the requirements for the practice of this procedure, which in principle should follow an evaluation of various criteria for reproductive and obstetric risk, were not fully met.<sup>78</sup>

## **5. HIV/AIDS**

### **Laws and Policies**

The Resolution on the Prevention and Monitoring of HIV/AIDS in Bolivia<sup>79</sup> states that laboratory tests may be performed (1) only at the request of the interested party, (2) when there is an epidemiological history, (3) when there is a clinical suspicion of HIV infection, or (4) for purposes of epidemiological monitoring and research determined by epidemiological factors.<sup>80</sup> The regulation governs the rights and obligations of all healthy, infected, and ill persons in relation to this disease.<sup>81</sup>

The regulation also establishes that research surveys and interviews may only be conducted with the prior consent of the person surveyed or when the health care authority determines it is necessary for reasons of public safety.<sup>82</sup> Those persons infected with HIV cannot be denied access to educational, sports, social, and cultural centers, be they public or private,<sup>83</sup> and any kind of discrimination owing to their condition as carriers is prohibited.<sup>84</sup> Health care workers in the public sector, social security, NGOs, or private sector establishments can not deny medical attention and hospital services to a person who is HIV positive or who has AIDS.<sup>85</sup> Such workers, moreover, are obliged to provide counseling and to inform and educate the people of Bolivia about HIV/AIDS, without making any distinctions whatsoever.<sup>86</sup> Any person who engages in prostitution is supposed to receive information, training, education, and counseling by the corresponding health care agencies regarding the prevention of HIV/AIDS.<sup>87</sup>

In the area of employment issues, the regulation establishes the obligation of the Ministry of Labor and Labor Development to provide legal and job-related support to HIV carriers who cannot be terminated from their employment on the basis of HIV status.<sup>88</sup> In the penal area, the propagation of serious or contagious diseases is considered a felony against public health,<sup>89</sup> and whoever puts another in danger of infection through sexual contact or breastfeeding can be imprisoned, with an increase in sentence if contagion occurs.<sup>90</sup>

### **Reality**

Since Bolivia is a country of low incidence of AIDS, the disease is not viewed as a pressing problem.<sup>91</sup> In 1999, it was calculated that 4,200 persons were HIV/AIDS carriers.<sup>92</sup> By March 2000, 498 cases of HIV were reported, but this number rose to 517 over the following eight months. According to the World Health Organization, this number should be multiplied by ten, bringing the number of HIV carriers to more than 5,000.<sup>93</sup>

Studies have shown that transmission of the disease is related to inequalities caused by gender, deficiencies in sexual education programs, behavioral patterns, values, patriarchal beliefs and taboos,

ignorance, low self-esteem, and erroneous preconceptions regarding AIDS. The groups that are most vulnerable to the expansion of the disease are women, adolescents, and youths.<sup>94</sup>

According to experts, Bolivia has been slow to strengthen its reactive capacity due to the initial low HIV incidence, and this has caused an irrecoverable delay in the introduction of prevention strategies.<sup>95</sup> Despite the fact that the incidence of the disease in this country is very low compared to the average in Latin America (24.7 per 100,000 inhabitants), the number is increasing at an alarming rate (from 0.02 per 100,000 inhabitants in 1985 to 1.26 per 100,000 inhabitants in 1998).<sup>96</sup> The prevailing stereotypes regarding HIV/AIDS as a problem among homosexuals, prostitutes, and drug addicts are being disproved by the growing rate of infection in women, homemakers, and heterosexuals.<sup>97</sup> Whereas during 1988–1990 there was one infected woman for every five men, the ratio in 1998 was one infected woman for every two men.<sup>98</sup> Of the cases reported in Bolivia (461 through December 1999), approximately half were full-blown AIDS cases, and the mortality rate was close to 70%.<sup>99</sup>

In contrast to what the authorities say, the human rights of HIV carriers are constantly violated. There are no specialized care centers to guarantee the dispensation of medication, and the legal provisions enacted to protect this population are not reflected in the area of public policy.<sup>100</sup>

Regarding sexually transmissible infections, insufficient information is available in the country because there are no studies on prevalence, except for some very specific groups (among sexual workers, for example).<sup>101</sup>

## **B. Sexual Violence Against Women, Including Minors (Articles 10(3) and 12 of the ICESCR)**

Article 10(3) requires states parties to take all appropriate steps to protect children and adolescents. This article, combined with Article 12, protects children and adolescents against all forms of physical abuse and violence. In the same way, Articles 10 and 12 encompass protections for women prohibiting all forms of sexual and/or physical violence. Thus, when women, whether they are minors or of majority age, are victims of sexual abuse or domestic violence, their rights under these provisions are violated.

This Committee has repeatedly expressed its concern over the problem of violence against women.<sup>102</sup> It has noted that violence against women, both within and outside the family has serious effects on the physical and mental health of women and their children.<sup>103</sup> It has also commended attempts being made to “recognize domestic violence as a public health issue,”<sup>104</sup> and has strongly advised states parties to adopt effective measures to combat violence against women as a matter of public policy.<sup>105</sup>

### **1. Rape and Other Sexual Crimes**

#### **Laws and Policies**

In 1999, the Law for the Protection of Victims of Crimes against Sexual Freedom modified the Penal Code chapter on Crimes against Proper Customs. This reform redefines the crime of rape as follows: “Whoever employing physical violence or intimidation had carnal knowledge of a person of either sex, by anal or vaginal penetration, or by the introduction of objects with libidinous intent, will be punished by jail for five (5) to fifteen (15) years.”<sup>106</sup>

The novelty of this law is its recognition of the rights and guarantees of protection for victims of crimes against sexual freedom, among which are (1) the right to choose where to bring charges, including associations or foundations for the protection or aid of victims; (2) the right to abstain from testifying if it is considered that the elements of proof are sufficient to prove the culpability of the defendant; (3) the right to use another name in those cases in which participation is necessary; (4) the right to anonymity in the media; (5) the right to have forensic exams performed only once and not repeated; and (6) the right to avoid confrontation with the accused.<sup>107</sup>

The Penal Code also provides sanctions for the felony of abduction for sexual purposes, indicating that whoever “with violence, threats or trickery removes or confines a person with the purpose of contracting matrimony” will be punished.<sup>108</sup> There is no sanction if the accused enters into matrimony with the victim as long as there is free consent before the sentence is executed.<sup>109</sup>

### **Reality**

There has been some indication of progress in the past ten years in how policymakers and the public view sexual crimes. However, the continued emphasis on “traditional” sexual crimes involving sexual penetration impedes adequate recognition and punishment of non-traditional sexual crimes that also threaten sexual autonomy and physical and psychological integrity of both minors and adults. Legislation and law enforcement handling of sexual crimes is tending toward an increase in penalties for perpetrators of traditional crimes involving penetration, rather than appropriate classification of non-traditional sexual crimes that also have severe physical and psychological effects.

According to official statistics, in 1998 there were 3,321 cases of what were still listed as Crimes against Proper Customs – rape, sexual abuse of an adolescent by means of deceit, and unchaste abuse – less than half the number reported in 1996.<sup>110</sup>

## **2. Sexual Harassment**

### **Laws and Policies**

The Bolivian Political Constitution establishes that “People’s dignity and freedom are inviolable. The state has the fundamental duty to respect and protect these.”<sup>111</sup> There is no treatment of sexual harassment in Bolivian legislation; it is not considered to be a felony, nor are there any other legal rules or regulations sanctioning acts of sexual harassment.

The most appropriate instrument to combat sexual harassment in the workplace is the Inter-American Convention to Prevent, Sanction and Eradicate Violence Against Women (Belem do Pará Convention), incorporated into Bolivian law in 1994.<sup>112</sup> Outside this legal instrument, only sectorial regulations in the area of education and educators contain provisions that sanction these behaviors.<sup>113</sup>

### **Reality**

These legal instruments are insufficient to protect victims of sexual harassment, many of whom prefer to remain silent or simply report the abuse to an institution or organization for the defense of women’s rights for purposes of information and/or representation.<sup>114</sup> Because sexual harassment in the workplace is not classified as a felony or misdemeanor, the victims of this type of violence do not report it, especially when they depend on the income from their employment. Cases are rarely

reported and victims are often treated derisively by the authorities.<sup>115</sup> A draft bill against sexual harassment was approved by the Chamber of Deputies, but more than three years have elapsed since it was presented and it has not advanced towards becoming law.<sup>116</sup>

Most reported cases of sexual harassment are those committed by teachers, where the victims are minors. These behaviors are classified as unchaste abuse or sexual abuse of an adolescent by means of deceit, which prevents awareness of the harm caused by behaviors that do not necessarily imply physical contact.<sup>117</sup>

### **3 Domestic Violence**

#### **Laws and Policies**

In 1995, the government of Bolivia approved the Law against Family or Domestic Violence.<sup>118</sup> Its primary goal is (1) to encourage the modification of sociocultural values, (2) to sensitize the community about the problem of violence, (3) to generate respect and solidarity within the family, (4) to sanction those actions classified as interfamily violence, and (5) to apply alternative methods and immediate emergency protective orders for the protection of victims.<sup>119</sup> The law defines family or domestic violence as “physical, psychological or sexual aggression committed by the spouse or cohabitant; ascendant relatives, descendants, siblings, civil relatives or the like, and caregivers or custodial guardians.”<sup>120</sup> This type of aggression committed between former spouses, former cohabitants or those with children in common also constitutes acts of domestic violence.<sup>121</sup>

The law grants jurisdiction to family judges in cases involving domestic violence.<sup>122</sup> In indigenous and rural communities, jurisdiction is granted to community authorities for the resolution of family violence issues, according to prevailing uses and customs, as long as these are not contrary to the Bolivian Political Constitution and the spirit of the law.<sup>123</sup> Acts of violence that are felonies as listed in the Penal Code are the exclusive jurisdiction of the penal judges.<sup>124</sup>

Among the protective measures that the judge can establish in favor of victims of domestic violence are (1) prohibition or temporary restriction of the accused from entering the conjugal home, (2) an order restoring the victim to the home that he or she left due to violence, (3) authorization for the victim to leave the home and immediate restoration of his or her personal effects, (4) an inventory of the personal property and real estate that are community property, and (5) an order barring the accused from going to the victim's workplace.<sup>125</sup>

#### **Reality**

##### ***Incidence of Domestic Violence***

Domestic violence is one of the most reported and visible types of violence against women. Since 1995, when a law was passed expressly to prevent and sanction aggression suffered primarily by women and children in family and/or domestic relationships, the number of reports of domestic violence has increased sharply. In 1998, the National Institute of Statistics and the Central Command of the National Police reported 44,965 cases of domestic violence that included abuse of minors; physical, psychological and sexual aggression; abandonment of the family; abandonment of pregnant women; attempted rape, and others.<sup>126</sup> During the first quarter of 1999, the family protection brigades existing in five departments reported 24,034 cases of violence. Comprehensive Legal Services (legal support agencies created in some municipalities) recorded 21,449 cases, and the family courts in those

departments without family protection brigades reported 1,171 cases, for a total of 46,654 cases.<sup>127</sup>

***Obstacles to the Application of the Legal Framework***

Notwithstanding the provisions of the law and its regulations,<sup>128</sup> to date domestic violence is treated as a problem that is taken care of by the police (male or female officers, depending on the case). Although in some cities the police receive training in domestic violence, they are not sufficiently prepared to ensure the respectful treatment of the victims and the observance of their human rights. The greatest obstacle to the application of the law is obtaining the necessary evidence to initiate an investigative process, that is, the forensic medical certificate that proves the harm done. The judges require that the forensic physician present the evidence, but lack of sufficient staff at the Office of Forensic Medicine and lack of specialization in the treatment of victims of violence make this difficult in practice. Although the law allows medical certificates issued by any professional who works in a public health institution as valid documentary proof, these professionals cannot certify the dates of the incidents, which impedes the process of investigation and delays presentation to the judge.<sup>129</sup>

The high number of reports recorded at police stations and Comprehensive Legal Services does not correspond to the smaller number of cases seen by family judges, who are the only ones with legal authority, to impose arrests, fines, or alternative measures such as psychological treatment and community service.<sup>130</sup>

There are frequent reports of abuse, arbitrary imprisonment, and extortion of victims and aggressors by the police, and the only corrective measure taken is a change in post, which simply results in the same police officers being rotated among posts.<sup>131</sup>

Given the overload of work for the judicial authorities and the low priority given to domestic violence, these authorities prefer that the police resolve these cases.

## **4 Violence in Health Care Services**

### **Reality**

***Health Service Users' Rights***

There is no appropriate legislation in the country for the protection of patients against acts of coercion or negligence in health care services. This, in turn, inhibits proper statistical recording of cases, despite the fact that many such cases are reported on in the national press.<sup>132</sup>

The imbalance of power in the relationship between health care professionals and patients manifests itself in the coercion by those professionals against the persons who require their services. When Bolivians, the majority of whom are of indigenous descent, go to health care posts which purport to offer quality, comprehensive services, they often encounter discriminatory attitudes based on gender, age, or ethnicity.<sup>133</sup>

Studies conducted to assess the advances achieved in topics of health care demonstrate the need to train healthcare providers and improve the infrastructure in order to keep up with the increase in coverage by the Basic Health Insurance Program without decreasing quality of care. It is also important to eliminate the cultural obstacles that undermine the demand for services.<sup>134</sup>

There are no mechanisms within the health care system to monitor forced sterilization or sexual abuse of patients/clients. If this occurs, the victim's only option is to resort to the courts under Article 270

(and the articles that follow) of the Penal Code, which refers to “felonies against corporal integrity and health,” or the fourth section of Article 218, which makes unnecessary surgical interventions or medical treatment punishable by three months to two years in prison or a fine of 30 to 100 days wages.<sup>135</sup>

### **C. Family Relationships, Including Equality Between Spouses, and in Marriage and Domestic Partnership (Article 10 of the ICESCR)**

Article 10 provides for the protection of the family, the mother, and the child, including the right to enter freely into marriage.

This Committee has expressed its concern over lack of legal recognition of common law marriages, and the devastating economic consequences on women upon separation, abandonment or death of the male wage earner due to the lack of legal protection.<sup>136</sup>

#### **1. Equality Between Spouses, and in Marriage and Domestic Partnerships**

##### **Laws and Policies**

The principle of equality guaranteed by the Bolivian Political Constitution establishes that each person enjoys the rights, freedoms, and guarantees found in the Constitution regardless of sex.<sup>137</sup> It also affirms equality between spouses, establishing that marriage “rests on the equality of the rights and duties of the spouses,”<sup>138</sup> and affirms that marriage, family, and maternity are protected by the state.<sup>139</sup> The Family Code<sup>140</sup> regulates that which is relevant to family and matrimonial relationships and relies on the constitutional principle of legal equality between spouses. Thus, the law establishes that conjugal and filial relationships, as well as the exercise of authority over children, are subject to equal legal treatment.<sup>141</sup> For civil purposes, adult age is attained at 21<sup>142</sup> and citizenship is acquired at 18.<sup>143</sup> The Family Code establishes that 16 is the minimum age for marriage for men and 14 the minimum for women.<sup>144</sup>

Spouses owe one another fidelity, assistance, and mutual aid.<sup>145</sup> Both spouses establish the conjugal domicile,<sup>146</sup> and each contributes to the common needs insofar as their financial possibilities permit.<sup>147</sup> If one spouse is unemployed or unable to work, the other must satisfy the other’s needs.<sup>148</sup> According to the law, the woman fulfills a socially and economically useful role in the home that is protected by the legal code.<sup>149</sup> Both spouses manage the common assets belonging to the conjugal relationship.<sup>150</sup> Bigamy is a felony according to the Penal Code and is punishable by two to four years in prison.<sup>151</sup>

The Family Code still contains discriminatory provisions, such as the one stating that “a husband can request that his wife be restricted or prohibited from practicing a certain profession or occupation, for reasons of morality or when her social function in the home is seriously impaired as a result.”<sup>152</sup>

Bolivian family legislation protects the “common law union or domestic partnership,” this being understood to exist “when a man and a woman voluntarily create a home and share a common life in a stable and singular manner” for a minimum of two years.<sup>153</sup> The effects of this are similar to those of marriage in terms of personal as well as patrimonial relationships.<sup>154</sup> The requirements for the recognition of domestic partnership are (1) age, which is the same as that required for marriage, (2) freedom of civil status, and (3) the absence of charges of homicide of the other’s (former) spouse.<sup>155</sup> On the other hand, the Civil Code recognizes rights of inheritance between cohabitants<sup>156</sup> and

establishes that “common law unions or domestic partnerships recognized by the Bolivian Political Constitution and the Family Code produce successorial effects for the cohabitants similar to those of marriage.”<sup>157</sup>

Pre-matrimonial unions such as *tantanacu* and *sirvinacu* persist among members of the Andean communities: Bolivian law recognizes domestic partnerships within the indigenous communities and others, and their effects are similar to those of marriage.<sup>158</sup>

## **Reality**

Despite the principle of conjugal equality by law, there are still some discriminatory provisions in the Family Code.<sup>159</sup>

It is important to note the progress made by the regulation of domestic partnerships, but it must be noted that in practice, the resolution of conflicts between the couple and within the family continues to be very problematic for women in rural areas. The difficulty in proving their status as domestic partners or the paternity of their children through documentation delays women’s applications for family assistance or distribution of property. The requirement of documentary proof by the judicial authorities generates high financial costs to hire lawyers and legal fees that increase daily.<sup>160</sup>

In 1998, more than half the women of childbearing age (59%) lived in some type of conjugal union: 45% were formally married and 14% were cohabiting. Nine out of ten women between the ages of 15 and 19 were single, 49% of women aged 24 lived in a conjugal union, and less than 8% of women over the age of 40 were single.<sup>161</sup> Among women between the ages of 15 and 19, 7.8% were cohabiting and 2.8% were married.<sup>162</sup> Among women between the ages of 25 and 49, the median age of their first union was 21, whereas the median age for the first union for men was 24.<sup>163</sup>

## **2. Divorce and Child Custody**

### **Laws and Policies**

Divorce, as a way of dissolving the marriage, is allowed for the following causes: adultery or sexual relationship by either spouse; extreme cruelty, serious injury, or verbal or physical abuse making shared life intolerable; attempted murder of the spouse; being the author, accomplice, or instigator of felonies against the honor or property of one of the spouses; corruption of one of the spouses toward the other; corruption of the children; consent to the corruption or prostitution of the children; and malicious abandonment of the home provided that the abandoning spouse does not return to the conjugal home within six months of being legally required to do so by the other spouse.<sup>164</sup> Separation, freely agreed upon by both spouses and continuous for more than two years, is also considered cause for divorce.<sup>165</sup>

The property acquired within the marriage form part of community property and, in case of divorce, is divided equally between both spouses, including the profits earned during the marriage unless there is a judicial separation of assets.<sup>166</sup>

In the case of separation, divorce, or termination of the domestic partnership, the custody of the children is determined by the judge, who is to ensure the best care and moral and material interests of the children.<sup>167</sup> The mother and father may independently come to an agreement acceptable to the judge.<sup>168</sup> The noncustodial parent must contribute to the children’s support “according to his or her

possibilities” and the needs of the children.<sup>169</sup> Monetary support established by the judge may be modified, depending on an increase in the income of the obligated party or the needs of the receivers. Since this is considered to be in the social interest, compliance may be obtainable by injunction.<sup>170</sup>

### **Reality**

Once monetary support for the benefit of the children and the spouse is determined, the court will enforce noncompliance with the decision by entering an order for collection.<sup>171</sup> Without prejudice to the collection of the nonpayment, a subsequent law provides that the judge can order the payment of monies accrued through seizure of property and subsequent auctioning of the liable party's goods, following three-days' notice of the corresponding liquidation, while at the same time adding interest to the amount owed.<sup>172</sup>

## **3 Early Marriage**

### **Laws and Policies**

The Family Code establishes that the minimum age for marriage for men is 16 and for women is 14, as long as they have their parents' consent.<sup>173</sup> An exception to this occurs “when there are serious and justified circumstances,” such as pregnancy, under which the judge can authorize the marriage of persons younger than the minimum ages.<sup>174</sup>

### **Reality**

The percentage of women entering into conjugal unions before the age of 20 remained constant at 65% to 70% from 1994 to 1998.<sup>175</sup> Among women between the ages of 25 and 49 in 1998, the median age of first conjugal union was 21.<sup>176</sup> Between 1990 and 1994, Bolivia had the highest percentage of women between the ages of 20 and 24 who had had sexual intercourse before the age of 20 (57%), including Brazil (50%) and Colombia (50%).<sup>177</sup>

## **D. The Right to Education (Articles 12, 13, 14, and 15 of the ICESCR)**

Articles 13 and 14 of the Covenant protect children's rights to compulsory primary education, free of charge for everyone. Article 15 recognizes the importance of access to information and materials from diverse sources. Article 12, when read together with these articles, establishes the link between education, the right not to be subject to discriminatory treatment based on gender, and the right to health education.

In General Comment 13 this Committee has recognized that the right to education is a “human right in itself and an indispensable means of realizing other human rights”<sup>178</sup> and that “education has a vital role in empowering women.”<sup>179</sup> The Committee further emphasizes that education must be accessible to everyone without discrimination.<sup>180</sup>

This Committee has drawn attention to the urgent need to take steps toward tackling the problem of illiteracy among women<sup>181</sup> and has placed a special emphasis on the right to education of particularly vulnerable groups. The Committee has acknowledged the value of a shift in education policies promoting access to education for the most disadvantaged groups of society, and has recommended that this focus be maintained.<sup>182</sup> This Committee has also made the link between the rights to

education and health in acknowledging that “poor women with no education have a maternal mortality rate ten times higher than that of educated women.”<sup>183</sup>

## **Laws and Policies**

One of the objectives of the Law on Educational Reform is to teach personal care and well-being, proper hygiene, family planning, responsible and loving sexual behavior, the relationship between sexuality and affection, and the preservation of health by assessing the repercussions of certain behaviors.<sup>184</sup> The Resolution on the Prevention and Monitoring of HIV/AIDS in Bolivia establishes that the Ministry of Education, in conjunction with the Ministry of Health, will hold classes on sexual education at educational facilities after training teachers on this topic.<sup>185</sup> This program includes primary, secondary, and advanced education.<sup>186</sup>

## **Reality**

### ***Reform of the Educational System***

During the 1990s, Bolivia developed a series of educational reform measures aimed at insuring universal access to education and overcoming existing educational problems, such as the lack of attention to cultural and linguistic issue for the various indigenous groups, the obsolescence of methodology and curricula, and other administrative problems. But the efforts made so far continue to be insufficient, due to problems such as extreme poverty in rural areas and discrimination based on gender and ethnicity, barriers that are difficult to overcome.<sup>187</sup>

### ***Coverage of the Educational System***

In Bolivia, the educational system covers just over two-thirds of the school-age population, since 32% of children and adolescents are outside the formal educational system.<sup>188</sup> Disparity in access to education reflects inequalities in terms of gender, class, and ethnicity.<sup>189</sup> Discrimination within the educational system is reflected in different ways. For example, with regard to school attendance, there are very marked differences between the urban and rural areas and between males and females. Of the total children of school age who do not attend school, 62.2% are female, and of the total illiterate youth (10 to 24 years old) in rural areas, 77.6% are female.<sup>190</sup> Among urban youths and adolescents, 22.8% do not attend school, whereas in rural areas the rate is 41%.<sup>191</sup>

### ***Illiteracy***

In 1997, illiteracy was concentrated among people between the ages of 25 and 65, accounting for 44.7% of the total illiterate population.<sup>192</sup> It is estimated that 3.4% of young and adolescent females do not know how to read or write, compared to 2% of the males in the 10-to 24-year-old age group, a difference that is greater in the rural areas.<sup>193</sup> Of the total illiterate adolescents and youths (10 to 24 years old), 77.6% live in rural areas (of which 62.2% are female and 37.7% are male). Of the illiterate youths and adolescents living in urban areas, 66.1% are female and 33.8% are male.<sup>194</sup>

### ***Sexual Education***

The high percentage of pregnant or adolescent mothers who have no education (52%) is an indicator of the need to provide sexual education to adolescents. In 1998, among women with no education, one out of every ten was pregnant with her first child.<sup>195</sup> In accordance with the educational reform initiative, the Education for Sexuality project was designed and put in place as a common subject in all grades and materials are used in the first cycle of formal education. However, a lack of qualified, unprejudiced personnel makes the generalized application of the project difficult, limiting it to a few educational institutions.<sup>196</sup> Because of this, it is even more difficult in rural areas to introduce the

project in the formal educational system. It should be noted that the demands for sexual and reproductive health care in rural areas continue to go unsatisfied due to lack of human and financial resources.<sup>197</sup>

***Discrimination Against Pregnant Women at Educational Institutions***

To address the problem of school dropout due to adolescent pregnancy, the educational authorities enacted Ministerial Resolution No. 457, dated June 8, 1995, which prohibits the rejection or expulsion of pregnant students from educational facilities, regardless of civil status, thus allowing them to complete their studies.<sup>198</sup> However, due to a lack of adequate dissemination of this standard, school principals at the secondary, technical, and professional level continue to reject and expel pregnant students.<sup>199</sup>

**E. The Right to Equitable and Satisfactory Working Conditions (Articles 6, 7 and 10 of the ICESCR)**

Article 6 of the Covenant guarantees the right of every person to freely work and to freely choose or accept employment, and Article 7 establishes the minimum conditions in which this work should be carried out. Article 10 protects the rights of working women before and after pregnancy.

These provisions guarantee women access to employment without discrimination and to protection during pregnancy. This Committee has expressed deep concern over the treatment of women workers. In particular, the Committee has condemned the practice of subjecting women to pregnancy tests during job recruitment and at intervals during work, and the discriminatory practice of firing women for being pregnant.<sup>200</sup> The Committee has urged governments to take immediate steps to protect women workers from such practices, including the prohibition of mandatory pregnancy tests during employment and the use of legal action against employers who fail to comply.<sup>201</sup>

**Laws and Policies**

Bolivia's labor laws, contained in the General Labor Law,<sup>202</sup> recognize the right of all pregnant women to 45 days of prenatal leave and 45 days of postnatal leave.<sup>203</sup> In addition, a pregnant woman cannot be fired from her job during the gestational period or for a period of up to a year following the birth of the child.<sup>204</sup> The Social Security Code<sup>205</sup> incorporates obligatory maternity insurance for female workers and the spouses or cohabitants of male workers.<sup>206</sup> This insurance covers prenatal, postnatal, delivery, and postpartum care.<sup>207</sup> As a complement to the health care services, a maternity subsidy is granted to the insured (worker or beneficiary) for a period of 17 months, counted from the fourth month of pregnancy to a year following the date of the birth.<sup>208</sup> The amount of the subsidy is the equivalent of the minimum national salary, payable in the form of milk and iodized salt.<sup>209</sup> Maternity and lactation subsidies are also recognized in the Social Security Code.<sup>210</sup>

**Reality**

***Remuneration, Job Opportunities, and Discrimination***

According to recent data, only 81% of women who work receive money for their work, and a large number of independent workers do not receive any compensation at all, especially those between the ages of 15 and 19 (296%). In the rural areas, 38.8% of workers receive no remuneration.<sup>211</sup> Women receive an average of 50% of the income earned by men, regardless of age, type of activity, occupation, and level of education. Women with no education receive an average wage of 44% of what men receive under the same conditions. Women with university or superior technical education receive an

average salary of 70% of that earned by men with the same level of education.<sup>212</sup>

Work opportunities for women in Bolivia are very scarce, due to the lack of employment opportunities as well as the persistence of cultural values that reinforce the role of women in taking care of the home and the children. Therefore, 60% of working age women dedicate their time to homemaking activities.<sup>213</sup> Almost 50% of the women who work do so in business or other services (47%). The majority of female workers live in cities (59%), where a substantial percentage of the female professionals and managers are also found (20%). In rural areas, most female workers participate in the agricultural sector (59%). Agricultural employment in highly isolated municipalities and in the departments of Potosí, La Paz, and Chuquisaca has a higher concentration of women with no education.<sup>214</sup>

Prejudice on the part of employers and upper-level executives against female workers translates to less pay for women for the same work. Studies indicate that employers justify the lower salaries for women by maintaining that women's work is inferior because of a greater likelihood that their professional career will be interrupted, that their home responsibilities will interfere with their work, and that they will be less available to work extra hours.<sup>215</sup> These studies indicate that the majority of employers and executives, independent of sex, believe that men and women have almost opposite psychological, physical, and social profiles that define different working potentials.<sup>216</sup>

#### ***Domestic Workers***

Domestic workers, a group made up primarily of migrant women from rural areas, experience problems related to class, ethnicity, and gender. This group represents 12.9% of women in unsalaried domestic work, whose basic labor rights such as minimum wage, social security, reasonable limitation of working hours, and job stability in cases of maternity are denied. This sector has been working for the enactment of the Salaried Domestic Work Law, a draft bill of which has languished with the Senate, following its approval by the Chamber of Deputies. Efforts on the part of the Federation of Domestic Workers and the institutions that support them to try to raise awareness among legislators have been in vain.<sup>217</sup>

#### ***Discrimination Because of Maternity Leave***

Another important factor in the hiring and promotion of women is the temporary (three- month) and/or indefinite interruption of work due to maternity. Male and female employers and executives consider the reproductive capacity of women to be a serious obstacle to their being hired. Employers find that three months of leave is very costly for the company, especially because of the difficulties involved in finding replacements for certain positions that require training.<sup>218</sup>

Women with small children who wish to work must rely on support from their families, especially from grandmothers, or use home childcare workers, because day care centers and nurseries are not a viable alternative for the majority of women in Bolivia.<sup>219</sup> Among women who work, a high number care for their children themselves (54%), a smaller but still substantial percentage rely on care from a relative (18%), and in very few cases, the husband or partner takes care of the children (only 3% of the cases).<sup>220</sup>

The law allows women one hour for on-the-job breastfeeding, but in practice this is actually only granted to 21% of salaried women.<sup>221</sup> A leave of 45 days before and 45 days after delivery, as established by law, is only for insured persons, and only 55% of the women with jobs enjoy this right in practice, with great differences, according to the sector in which they work. Research on working women revealed that 32% had had no leave before their most recent delivery.<sup>222</sup>

## NOTES

<sup>1</sup> United Nations Committee on Economic, Social, and Cultural Rights, The Right to the Highest Attainable Standard of Health: General Comment no. 14, U.N. Doc. E/C.12/2000/4, August 11, 2000, ¶ 8.

<sup>2</sup> *Id.*, at ¶ 21

<sup>3</sup> *Id.*

<sup>4</sup> Concluding Observations of the 52<sup>nd</sup> session of the Committee on Economic, Social, and Cultural Rights: Argentina, U.N. Doc. E/C.12/1/Add.38, December 8, 1999, ¶ 24 [hereinafter U.N. Doc. E/C.12/1/Add.38].

<sup>5</sup> *Id.*, at ¶ 38; Concluding Observations of the 21<sup>st</sup> session of the Committee on Economic, Social, and Cultural Rights: Mexico, U.N. Doc. E/C.12/1/Add.41, December 8, 1999, ¶ 43 [hereinafter U.N. Doc. E/C.12/1/Add.41].

<sup>6</sup> Bol. Const., art. 7, pt. a.

<sup>7</sup> Health Code, Decree Law No. 15629, Jul. 18, 1978, art. 2.

<sup>8</sup> *Id.*

<sup>9</sup> Secretaría Nacional de Salud, Ministerio de Desarrollo Humano [National Office of Health, Ministry of Human Development], Diagnóstico Cualitativo de la Atención en Salud Reproductiva en Bolivia, Revisión Bibliográfica, [Qualitative Diagnosis of Reproductive Health Care in Bolivia, Bibliographical Review] 32 (1996) [hereinafter Bibliographical Review].

<sup>10</sup> Law of Ministries of the Executive Branch, Law No. 1495, Sept.17, 1995, art. 19, pt. f.

<sup>11</sup> Ministerio de Salud y Previsión Social, Unidad de Atención a las Personas [Ministry of Health and Social Security, Unit for the Care of Persons], Programa Nacional de Salud Sexual y Reproductiva 1999–2002 [National Program for Sexual and Reproductive Health Care 1999–2002] 42 (1999) [hereinafter National Program].

<sup>12</sup> *Id.*, at 38. The Basic Health Insurance program was created in 1998, extending basic services for children, women and the population in general, and is offered through the network of Ministry of National Health and Social Security health care establishments and the National Bureau of Health. The law creating the Basic Health Insurance Program is Supreme Decree No. 25265, Dec. 1998. In the case of maternal and perinatal health, the new insurance extends the package of services being offered free of charge since 1996 through the National Insurance for Mothers and Children.

<sup>13</sup> *Id.*, at 46.

<sup>14</sup> See Bibliographical Review, *supra* note 9, at 32. Basic services for children, women, and the population in general are included in the Basic Health Insurance Program. In the specific instance of offering maternal and perinatal health care services, this is organized in the form of a package – the Mothers and Children package – delivered free of charge since 1996 and now offered through the Basic Health Insurance Program. However, the latter does not cover

services related to the prevention and control of cervical-uterine and breast cancer, which are assumed by third-level institutions and the users, and which are insufficient to meet the detection needs of the population at risk.

<sup>15</sup> Care for Women and Newborns at Health Care Posts, Health Care Centers, and District Hospitals, Bolivian Standard of Health NDSNS-02-96.

<sup>16</sup> National Program, *supra* note 11, at 42.

<sup>17</sup> *Id.* The National Program for Sexual and Reproductive Health Care 1999–2002 recognizes interventions in prenatal and postnatal health care, prevention of sexually transmissible infections, including HIV/AIDS, tetanus vaccines, contraception, early detection of female cancers, breastfeeding, sexual education, nutrition, and prevention of nutritional anemia.

<sup>18</sup> *Id.*, at 46. The agency in charge of the design, execution, and regulation of the topics regarding health care is the Ministry of Health and Social Security, which supervises, evaluates and coordinates the National Health Care System.

<sup>19</sup> *Id.* This program seeks to improve inequalities in the health care sector and is addressed to the whole population, including adolescents, pregnant and nonpregnant women, and special groups.

<sup>20</sup> See Sistema Nacional de Salud [National Health Care System], La crisis del sector salud y la reforma del sector [The Crisis in the Health Care Sector and Its Reform], *available at* <<http://www.sns.gov.bo/pilares8.html>> visited Nov. 6, 1999.

<sup>21</sup> See World Bank, World Development Indicators 2000, 90 (1999) [hereinafter Development Indicators].

<sup>22</sup> See Ministerio de Salud [Ministry of Health], Capacidad Instalada [Installed Capacity], *available at* <<http://www.sns.gov.bo/capacrrff.html>> visited Feb. 8, 2001.

<sup>23</sup> See Development Indicators, *supra* note 21, at 90.

<sup>24</sup> See Ministerio de Relaciones Exteriores y Culto [Ministry of Foreign Relations and Culture], Primer informe de Bolivia al Comité de Derechos Económicos Sociales y Culturales [First report by Bolivia to the Committee on Economic, Social and Cultural Rights] 122 (1999) [hereinafter Report of Bolivia to CESCR].

<sup>25</sup> See Development Indicators, *supra* note 21, at 90.

<sup>26</sup> See Report of Bolivia to CESCR, *supra* note 24, at 121-122.

<sup>27</sup> See Development Indicators, *supra* note 21, at 98, table 2.15.

<sup>28</sup> See Report of Bolivia to CESCR, *supra* note 24, at 121-122.

<sup>29</sup> See *id.*

<sup>30</sup> See *id.*

<sup>31</sup> See Alberto de la Galvez Murillo & Bertha Pooley, *Remontando la pobreza [Overcoming Poverty]*, in *Dónde*

estamos el 2000? Ocho cimas a la vez [Where Are We in 2000? Eight Peaks at a Time] 147 (1999) [hereinafter *Overcoming Poverty*].

<sup>32</sup> See United Nations, *The World's Women Trends and Statistics 2000*, at 80, table 3.A [hereinafter *Trends and Statistics*].

<sup>33</sup> See Instituto Nacional de Estadística [National Institute of Statistics], *Encuesta Nacional de Demografía y Salud* [National Survey on Demographics and Health] 158 (1998) [hereinafter *National Survey*].

<sup>34</sup> See *Overcoming Poverty*, *supra* note 31, at 149.

<sup>35</sup> See *id.*, at 174.

<sup>36</sup> See United Nations Population Fund, *Salud sexual y reproductiva: un tema clave en la política boliviana, cáncer femenino* [Sexual and Reproductive Health: A Key Issue in Bolivian Politics, Female Cancer].

<sup>37</sup> See *id.*

<sup>38</sup> See *National Survey*, *supra* note 33, at 50.

<sup>39</sup> See *id.*

<sup>40</sup> See *id.*

<sup>41</sup> See Instituto Nacional de Estadística [National Institute of Statistics], *Información estadística, Bolivia: violencia doméstica registrada por ciudades capitales, según naturaleza de caso* [Statistical Information, Bolivia: Domestic Violence Recorded in Capital Cities According to the Nature of the Case] 59 (1998), available at <<http://www.ine.gov.bo/cgi-bin/iwdie.exe/despliegue>> visited Nov. 24, 1999. On the other hand, among those adolescents who are not in a relationship but who are sexually active, 63.5% use some contraceptive method.

<sup>42</sup> See Ministerio de Desarrollo Humano [Ministry of Human Development], *Declaración de Principios sobre Población y Desarrollo Sostenible* [Declaration of Principles on Population and Sustainable Development] 18 (1994) [hereinafter *Declaration of Principles*]. This document includes the Bolivian government's official policy on population, presented by the Bolivian Delegation to the International Conference on Population and Development held in Cairo in September 1994.

<sup>43</sup> See *id.*

<sup>44</sup> See *id.*, at 58. Among women using modern methods, the highest percentage used IUDs (11%) and the lowest percentage used injections (1%). See *National Survey*, *supra* note 33.

<sup>45</sup> See *Declaration of Principles*, *supra* note 42, at 60; *National Survey*, *supra* note 33.

<sup>46</sup> See *id.*

<sup>47</sup> See *Overcoming Poverty*, *supra* note 31, at 147.

<sup>48</sup> See *National Survey*, *supra* note 33, at 66. Within the private sector, the clinics and hospitals, medical offices, and pharmacies cover 17%, 12%, and 24%, respectively, of the provision of contraceptives. Pharmacies are the main providers of temporary delivery methods (pills, injections,

condoms, and vaginal methods) and public hospitals provide approximately half the sterilizations (46%).

<sup>49</sup> Micaela Parras, No. 25 - Management of Sexual and Reproductive Health Services from a Gender Perspective: Comparative Analysis of Public and Private Centers (1997- 1998), available at <<http://www.fhi.org/en/fp/fpothor/bolivia/bolabs25.html>> visited Nov. 6, 1999.

<sup>50</sup> See Julieta Montaña, Oficina Jurídica para la Mujer [Women's Law Office], *Mujeres del mundo: leyes y políticas que afectan sus vidas reproductivas, América Latina y el Caribe Suplemento 2000, Bolivia* [Women of the World: The Laws and Policies that Affect Their Lives, Latin America and the Caribbean 2000, Bolivia] 13 (1999) (unpublished report on file with CRLP), quoting information provided by the Director of the National Program for Sexual and Reproductive Health Care.

<sup>51</sup> Pen. Code., art. 263. A person who performs an abortion without the woman's consent or on a woman under 16 years of age can be jailed for two to six years.

<sup>52</sup> *Id.*, art. 266.

<sup>53</sup> *Id.*, ¶ 2.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*, ¶ 1.

<sup>56</sup> *Id.*, ¶ 3.

<sup>57</sup> *Id.*, art. 263, pt. 3. If the abortion is performed with the woman's consent, the punishment is one to three years in prison, for her as well as for the person who performs the procedure.

<sup>58</sup> *Id.*, pts. 1-2. A special article establishes the penalty to be imposed on the person who habitually performs abortions (art. 269). The Penal Code also imposes a punishment on whoever causes an abortion (art. 269) and whoever, through violence, causes a woman to abort, without the intent to cause it, if the pregnancy is obvious or he or she had prior knowledge of a pregnancy (art. 267). The attempt to abort is not punishable (art. 266). When the abortion is performed by the woman herself or by third persons with the woman's consent, in order to "save her honor" (although the code does not define "honor"), the punishment is six months to two years of jail, with an increase in sentence if the woman dies (art. 265).

<sup>59</sup> *Id.*, art. 266, ¶ 3.

<sup>60</sup> Ministerial Resolution No. 0133, Mar. 31, 1999. In a study conducted in 1997, 89% of the physicians interviewed approved the introduction of manual vacuum aspiration technology. See Julio Córdova et al., No. 29 - Attitudes and Opinions on Manual Endouterine Aspiration: a Study of Authorities and Health Providers at the Public Services of La Paz, available at <<http://www.fhi.org/sp/bolivias/bolabs29.html>>, visited Nov. 5, 1999.

<sup>61</sup> See Julieta Montaña and Florinda Corrales, Oficina Jurídica para la Mujer [Women's Law Office], *Leyes formales y políticas sobre salud reproductiva, Bolivia* [Formal Laws and Policies on Reproductive Health, Bolivia] 34 (1996)

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(unpublished report on file with CRLP).

<sup>62</sup> See *Gobierno pide discutir legalización del aborto* [Government Asks to Discuss the Legalization of Abortion], Los Tiempos, December 28, 2000.

<sup>63</sup> See Report of Bolivia to CESCR, *supra* note 24, at 121-122.

<sup>64</sup> According to the Association of Gynecology and Obstetrics, this number has to do with the lack of training by those who perform these practices, generally nursing assistants, medical students and others, and with the cost and quality of the services, financial problems, social pressures and fears caused by the classification of abortion as a felony. See Zulema Alanez, *Mitos y realidades, El aborto en Bolivia* [Myths and Realities, Abortion in Bolivia] 9 (1995).

<sup>65</sup> In 1996, 8,528 cases were reported; in 1997, 10,619 cases were reported; in 1998, 12,425 were recorded; and in 1999, 13,790 cases were reported to the health care services. In some hospitals, such as the Germán Urquidi Maternity Center in the city of Cochabamba, the increase for just one quarter was 300%, for an average of 30 incomplete abortions per week. See *Más de 10 mil abortos incompletos fueron atendidos por el SBS en 1999* [More Than 10,000 Incomplete Abortions Were Attended by the Basic Health Care System in 1999], última Hora, March 2, 2000.

<sup>66</sup> See *id.*

<sup>67</sup> See Oficina Jurídica para la Mujer [Women's Law Office], *Derechos Humanos de las Mujeres en Bolivia, Informe Sombra*, [Human Rights for Women in Bolivia] 7 (2001) (preliminary version of shadow report on file with CRLP) [hereinafter Preliminary Shadow Report].

<sup>68</sup> See *id.*

<sup>69</sup> See generally *Un juez decidirá si una menor abortará* [A Judge will decide if the minor will have an abortion], La Razón, July 6, 1999, at 19A; *Al parecer, la niña violada no abortará* [It appears the raped girl will not have an abortion], Los Tiempos, July 8, 1999, at D1; *Jueza: La niña violada por su padrastro no podrá abortar* [Judge: The Girl Raped by her Step-father Will Not be Able to Have an Abortion], La Razón, July 11, 1999; *Violador: 'Siempre he creído ser estéril'* [Rapist: I Always Thought I Was Sterile], La Razón, July 12, 1999.

<sup>70</sup> See *No prospera un juicio por aborto por falta de pruebas de cargo* [The Abortion Trial Ends Due to Lack of Evidence], Los Tiempos, January 27, 2000; *Sorprenden a médico practicando aborto* [A Doctor is Caught Performing an Abortion], Los Tiempos, February 24, 2000; *Atraparon a médico realizando un aborto que no era el denunciado* [A Doctor is caught Performing Abortions], Los Tiempos, February 25, 2000.

<sup>71</sup> See Tegan A. Culler, *Paper Justice*, XXI Conscience, Summer 2000, at 16.

<sup>72</sup> Bilateral tubal occlusion technique.

<sup>73</sup> See generally *Unidad Nacional de Atención a la Mujer y el Niño* [National Unit for the Care of Women and Children], Ministerio de Salud y Previsión Social [Ministry of Health and Social Security], *Oclusión Tubárica Bilateral en Riesgo Reproductivo* [Bilateral

Tubal Occlusion and Reproductive Risk] (1998) [hereinafter Reproductive Risk].

<sup>74</sup> Unofficially, it was determined that approximately seven women a month receive voluntary surgical contraception at the Germán Urquidi Maternal Infant Hospital in Cochabamba.

<sup>75</sup> See Hospital Materno Infantil Germán Urquidi [Germán Urquidi Maternal Infant Hospital], *Solicitud de alta voluntaria* [Request for voluntary release], Bolivia (form on file with CRLP).

<sup>76</sup> Wara Céspedes visited the hospital on December 22, 2000.

<sup>77</sup> Reproductive Risk, *supra* note 73.

<sup>78</sup> According to unofficial sources, consulted by the Oficina Jurídica para la Mujer, there are cases of female minors who submit to such practices. The impossibility of obtaining such information officially, however, does not allow for greater clarification of this point. See Preliminary Shadow Report, *supra* note 67 at 9.

<sup>79</sup> Ministerial Resolution No. 0660 for the Prevention and Monitoring of HIV/AIDS in Bolivia, Dec. 1996.

<sup>80</sup> *Id.*, arts. 8-12. Thus, it establishes that notification of laboratory results is strictly confidential. Counseling and psychosocial support should be offered in all cases. The presumed and confirmed results of the infection should be reported confidentially to the corresponding Regional Office for the respective epidemiological research. Health care professionals may not invoke professional confidentiality as an impediment to providing this information.

<sup>81</sup> *Id.*, arts. 40-43. When the patient consents or the physician considers it pertinent, a report may be made on the infected person's health status and the risks of contagion for the spouse, permanent partner or sexual partner of the patient, so that the corresponding measures of protection may be taken. If the patient's condition is serious, his or her family and other persons close to the patient should be notified, always safeguarding strict confidentiality.

<sup>82</sup> *Id.*, art. 36. It is absolutely forbidden to perform these activities for "discriminatory or publicity purposes."

<sup>83</sup> *Id.*, art. 38.

<sup>84</sup> *Id.* The exigency of serological testing to determine HIV infection as an obligatory requirement in the following cases is prohibited: admission to educational, sports and social centers; admission of foreign and national citizens to the country; access to work activities or permanent employment; and admission to military institutions. *Id.*, art. 45.

<sup>85</sup> *Id.*, art. 17.

<sup>86</sup> *Id.*, art. 49.

<sup>87</sup> *Id.*, art. 50. Managers of motels, brothels, and other similar establishments have the obligation to provide condoms to the clients and persons working in prostitution at these establishments. *Id.*, art. 51.

<sup>88</sup> *Id.*, art. 37. Employees are not obligated to inform their employers of their condition as HIV carriers in order to safeguard their right to confidentiality and nondiscrimination. Social Security services are prohibited

from reporting an employee's specific health status to his or her employer. *Id.*, art. 39.

<sup>89</sup> Pen. Code., art. 216, pt. 1.

<sup>90</sup> *Id.*, art. 277.

<sup>91</sup> See Family Care International, 3 ETS/SIDA, Archivos [STI/AIDS, Archives], March 1998, at 2 [hereinafter STI/AIDS Archives].

<sup>92</sup> United Nations Programme on HIV/AIDS, Epidemiological Fact Sheet on HIV and Sexually Transmitted Infections, 2000 Update, Bolivia 3 (2000), available at <http://www.unaids.org>, visited Feb. 9, 2001.

<sup>93</sup> See *El mundo pierde la lucha contra el SIDA [The world is losing the battle against AIDS]*, Los Tiempos, December 1, 2000.

<sup>94</sup> See National Survey, *supra* note 33, at 197.

<sup>95</sup> See *Overcoming Poverty*, *supra* note 31, at 173.

<sup>96</sup> See *id.*

<sup>97</sup> See *id.*, at 173-197.

<sup>98</sup> See STI/AIDS Archives, *supra* note 91, at 2.

<sup>99</sup> *Overcoming Poverty*, *supra* note 31, at 173.

<sup>100</sup> See Preliminary Shadow Report, *supra* note 67, at 11.

<sup>101</sup> See *id.*, at 10.

<sup>102</sup> U.N. Doc. E/C.12/1/Add.38, *supra* note 4, at ¶ 25; U.N. Doc. E/C.12/1/Add.41, *supra* note 5, at ¶ 26; Concluding Observations of the 51<sup>st</sup> session Committee on Economic, Social, and Cultural Rights: Dominican Republic, U.N. Doc. E/C.12/1/Add.16, December 12, 1997 ¶ 22.

<sup>103</sup> Concluding Observations of the 26<sup>th</sup> session of the Committee on Economic, Social, and Cultural Rights: El Salvador, U.N. Doc. E/C.12/Add.4, May 28, 1996 ¶ 20.

<sup>104</sup> Concluding Observations of the Committee on Economic, Social, and Cultural Rights: Dominican Republic, U.N. Doc. E/C.12/1/Add.6, June 12, 1996 ¶ 8 [hereinafter U.N. Doc. E/C.12/1/Add.6].

<sup>105</sup> *Id.*; U.N. Doc. E/C.12/1/Add.38, *supra* note 4, at ¶ 39; U.N. Doc. E/C.12/1/Add.41, *supra* note 5, at ¶ 40.

<sup>106</sup> Law for the Protection of Victims of Felonies against Sexual Freedom, Law No. 2033, Oct. 29, 1999, art. 2.

<sup>107</sup> *Id.*, art. 15.

<sup>108</sup> Pen. Code., art. 316. The punishment applied in these cases is 3 to 18 months of prison, but the sentence is reduced by half if the author of the crime spontaneously returns the kidnapped person to a safe place, or to the hands of his or her family.

<sup>109</sup> *Id.*, art. 317, modified by Law No. 2033, 1999, art. 8.

<sup>110</sup> See Instituto Nacional de Estadística & Comando General de la Policía Nacional [National Institute of Statistics & General Command of the National Police], Bolivia: casos policiales registrados por año según tipo del delito [Bolivia: Registered Police Reports by Year According to Types of Crimes], at table 3.11.02 (on file with CRLP) [hereinafter Registered Police Reports].

<sup>111</sup> Pen. Code., art. 6, pt. 2.

<sup>112</sup> Law No. 1599, G.O. Oct. 8, 1994.

<sup>113</sup> Reglamento de Faltas y Sanciones del Magisterio y Personal Docente Administrativo [Regulation on Fault and

Sanctions for Teachers and Other Educational System Personnel], Apr. 21, 1993.

<sup>114</sup> See Letters from Oficina Jurídica para la Mujer [Women's Law Office] to Director of the Technological Institute "El Paso," Director of the Departmental Federation of Rural Education Teachers, Departmental Director of Education, Regional Medical Chief, University Council, and others (on file with CRLP).

<sup>115</sup> See *Violencia intrafamiliar afecta al 98% de mujeres [Domestic Violence Affects 98% of Women]*, Presencia, February 25, 2000.

<sup>116</sup> Proyecto de Ley sobre Acoso u Hostigamiento Sexual [Bill on Sexual Harassment].

<sup>117</sup> See generally press clippings on cases occurring in different departments in the country (on file with CRLP).

<sup>118</sup> Ley Contra la Violencia en la Familia o Doméstica [Law against Family or Domestic Violence], Law No. 1674, Dec. 15, 1995.

<sup>119</sup> *Id.*, art. 3.

<sup>120</sup> *Id.*, art. 4.

<sup>121</sup> *Id.*, art. 5.

<sup>122</sup> *Id.*, art. 14.

<sup>123</sup> *Id.*, art. 16.

<sup>124</sup> *Id.*, art. 15.

<sup>125</sup> *Id.*, art. 18.

<sup>126</sup> Registered Police Reports, *supra* note 110, at table 3.12.01.

<sup>127</sup> See *Violencia [Violence]*, La Razón, May 28, 2000, at 4.

<sup>128</sup> Law 1674, G.O. Dec. 15, 1995; Supreme Decree No. 25087, G.O. Jul. 6, 1998.

<sup>129</sup> See Oficina Jurídica para la Mujer [Women's Law Office], 1984-1998, at 39.

<sup>130</sup> See *Violencia familiar no se cumplen leyes, no hay albergues ni medios para evitarla [Laws Don't Address Domestic Violence, There are no Shelters nor Measures to Prevent It]* Última Hora, June 15, 2000; *Jueces: sanciones contra los agresores de mujeres y niños no son ejemplares [Judges: Sanctions Against the Batterers of Women and Children Are Not Exemplary]* Última Hora, August 25, 2000.

<sup>131</sup> See generally *Intervendrán Brigada Familiar de la Policía [The Police's Domestic Violence Squad will be Investigated]*, La Razón, March 25, 2000; *Denuncia contra la BPF comprobada por PAT [Report against the Police's Domestic Violence Squad was investigated by the Associated Reporters of Television]*, El Diario, March 25, 2000; *Por irregularidades, suspenden a Comandante de Brigada femenina [Due to Irregularities, the Leader of the Police's Domestic Violence Squad is suspended]*, La Razón, March 26, 2000.

<sup>132</sup> See generally articles about medical negligence in the year 2000 issues of La Razón, El Diario, Presencia, Última Hora (on file with CRLP).

<sup>133</sup> See Preliminary Shadow Report, *supra* note 67, at 23.

<sup>134</sup> See *Overcoming Poverty*, *supra* note 31, at 177.

<sup>135</sup> Law No. 1768, Mar. 10, 1997, art. 270-271.

<sup>136</sup> U.N. Doc. E/C.12/1/Add. 6, *supra* note 104, at ¶ 22.

<sup>137</sup> Bol. Const., art. 6.

<sup>138</sup> *Id.*, art. 194.

<sup>139</sup> *Id.*, art. 193.  
<sup>140</sup> Fam. Code.  
<sup>141</sup> *Id.*, art. 3.  
<sup>142</sup> Civ. Code, art. 4.  
<sup>143</sup> Bol. Const., art. 41.  
<sup>144</sup> Fam. Code., art. 44.  
<sup>145</sup> *Id.*, art. 97.  
<sup>146</sup> *Id.*  
<sup>147</sup> *Id.*, art. 98.  
<sup>148</sup> *Id.*  
<sup>149</sup> *Id.*  
<sup>150</sup> *Id.*, arts 114, 116, 125. Financial obligations made by one spouse that are justified by their joint needs are presumed to have the other's assent. If the acts are not justified, they only personally obligate the spouse who agreed to them, as long as the creditor has known or should have known about the unjustified character, according to the circumstances. Each spouse can manage and freely dispose of the income he or she obtains from his or her job separately from the other spouse, so long as this is not to the detriment of the conjugal relationship. In order to dispose of or encumber community assets, the express consent of both spouses is needed, granted in and of itself or by proxy.  
<sup>151</sup> Pen. Code., art. 240.  
<sup>152</sup> Fam. Code., art. 99.  
<sup>153</sup> *Id.*, art. 158.  
<sup>154</sup> *Id.*, art. 159.  
<sup>155</sup> *Id.*, art. 172.  
<sup>156</sup> Civ. Code., art. 1083.  
<sup>157</sup> *Id.*, art. 1108.  
<sup>158</sup> Fam. Code., art. 160.  
<sup>159</sup> *Id.*, art. 99.  
<sup>160</sup> See Preliminary Shadow Report, *supra* note 67, at 12.  
<sup>161</sup> See National Survey, *supra* note 33, at 85.  
<sup>162</sup> See *id.*, at 86.  
<sup>163</sup> See *id.*, at 87.  
<sup>164</sup> Fam. Code., art. 130-131.  
<sup>165</sup> *Id.*  
<sup>166</sup> *Id.*, art. 101.  
<sup>167</sup> *Id.*, art. 145.  
<sup>168</sup> *Id.*  
<sup>169</sup> *Id.*  
<sup>170</sup> *Id.*, art. 149.  
<sup>171</sup> *Ibid.*, art. 436. The effectiveness of this provision, however, has been modified by art. 11, § I and II of the Law on the Abolition of Prison and Court-Ordered Collection for Patrimonial Obligations, because the decree lasts just 6 months, after which the liable party is freed, without the need to post bail, merely by giving his or her word that the liability will be met. If after six months of freedom the liable party has not fulfilled his or her obligation, the judge can order collection. Ley de Breviación Procesal Civil y de Asistencia Familiar [Law on the Abolition of Prison and Court-Ordered Collection for Patrimonial Obligations], Law No. 1602, G.O. Dec. 15, 1994.  
<sup>172</sup> Ley de Abreviación Procesal Civil y de Asistencia [Law on

Civil Procedural Reform and Family Assistance Familiar], Law No. 1760, G.O. No. 1981, Feb. 28, 1997, art. 70-71.  
<sup>173</sup> Fam. Code., art. 44, 53.  
<sup>174</sup> *Id.*, art. 44.  
<sup>175</sup> See National Survey, *supra* note 33, at 87.  
<sup>176</sup> See *id.*  
<sup>177</sup> See *id.*, at 85-87; Trends and Statistics, *supra* note 32, at 58, table 3.7.  
<sup>178</sup> United Nations Committee on Economic, Social, and Cultural Rights, The Right to Education: General Comments no. 13, UN Doc. No. E/C.12/1999/10, December 8, 1999 ¶ 1.  
<sup>179</sup> *Id.*  
<sup>180</sup> *Id.*, at ¶ 6(b)(i).  
<sup>181</sup> Concluding Observations of the 26<sup>th</sup> session of the Committee on Economic, Social, and Cultural Rights: Guatemala, U.N. Doc. E/C.12/1/Add.3, May 28, 1996 ¶ 32.  
<sup>182</sup> *Id.*  
<sup>183</sup> Concluding Observations of the 26<sup>th</sup> session of the Committee on Economic, Social, and Cultural Rights: Peru, U.N. Doc. E/C.12/Add.1/14, May 20, 1997, ¶ 16.  
<sup>184</sup> Ley Reforma Educativa [Educational Reform], Law No. 1565, Jul. 7, 1994, art. 40.  
<sup>185</sup> Prevención y Vigilancia del VIH/SIDA [Prevention and Monitoring of HIV/AIDS in Bolivia], Ministerial Resolution No. 0660, art. 56.  
<sup>186</sup> *Id.*  
<sup>187</sup> See Preliminary Shadow Report, *supra* note 67, at 24.  
<sup>188</sup> See Ministerio de Desarrollo Sostenible y Planificación [Ministry of Sustainable Development and Planning] et al., La Situación de Adolescentes y Jóvenes en Bolivia [The Situation of Adolescents and Youths in Bolivia] 46 (2000).  
<sup>189</sup> See *id.*  
<sup>190</sup> See *id.*, at 47.  
<sup>191</sup> See *id.*, at 47-48.  
<sup>192</sup> See *id.*, at 46. Illiterate youths and adolescents (10-24 years old) represented 5.3%, a percentage that is not very significant in quantitative terms compared to the national total, but which is a qualitative problem in that it shows that the formal education system does not include these people in its coverage or expels them prematurely from the formal school system.  
<sup>193</sup> See *id.*  
<sup>194</sup> See *id.*, at 47.  
<sup>195</sup> See National Survey, *supra* note 33, at 50.  
<sup>196</sup> See Silvia Camacho, *Técnicas del Programa Transversales de la Reforma Educativa [Transverse Program Techniques in Educational Reform]*, La Razón, March 11, 1999, at A-10.  
<sup>197</sup> See *Overcoming Poverty*, *supra* note 31, at 176.  
<sup>198</sup> Ministerial Resolution No. 457, Jun. 8, 1995, at 2.  
<sup>199</sup> Testimonies by representatives from Women's Rights Organizations demanding the observance of the Ministerial Resolution and letters to the Departmental Director of Education concerning the department's discrimination against mothers and the requirement to show marriage

certificates.

<sup>200</sup> U.N. Doc. E/C.12/1/Add.41, *supra* note 5, at ¶ 37; U.N. Doc. E/C.12/1/Add.6, *supra* note 104, at ¶ 22.

<sup>201</sup> U.N. Doc. E/C.12/1/Add.41, *supra* note 5, at ¶ 37.

<sup>202</sup> Ley General del Trabajo [General Labor Law], Law Decree dated May 24, 1939, enacted into law on December 8, 1942.

<sup>203</sup> Law Decree No. 13214, Dec. 24, 1975, art. 31.

<sup>204</sup> Law No. 975, May 2, 1988, art. 1.

<sup>205</sup> Soc. Sec. Code., Dec. 14, 1956.

<sup>206</sup> *Id.*, art. 23.

<sup>207</sup> *Id.*

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*, art. 45.

<sup>211</sup> See National Survey, *supra* note 33, at 32.

<sup>212</sup> See Fernanda Wanderley, Subsecretaría de Asuntos de Género [UnderSecretary on Gender Issues], Discriminación ocupacional y de ingresos por género [Occupational and Income Discrimination by Gender] 24 (1995) [hereinafter Discrimination by Gender].

<sup>213</sup> See *id.*, at 23.

<sup>214</sup> See National Survey, *supra* note 33, at 30.

<sup>215</sup> See Subsecretaría de Asuntos de Género, Ministerio de Desarrollo Humano [Undersecretary on Gender Issues, Ministry of Human Development], Contribución de las Mujeres a la Economía Nacional. El caso de Bolivia [Contribution by Women to the National Economy. The Case of Bolivia], 66 (1996) (working document on file with CRLP).

<sup>216</sup> See Discrimination by Gender, *supra* note 214, at 35. In view of the existence of cultural patterns strongly rooted in the supposedly natural characteristics of men and women that make up male and female behaviors for social life in general and work in particular, it is considered that certain occupations are for men and others are for women.

<sup>217</sup> See generally June 2000 newspaper articles from La Razón, Los Tiempos, and El Diario. Movements by the Federation of Domestic Workers resulted in the collection of more than 30,000 signatures, delivered in public to the chair of the Senate, without any effect whatsoever on legislators' resistance to the recognition of minimum rights for domestic workers.

<sup>218</sup> See Discrimination by Gender, *supra* note 212, at 45.

<sup>219</sup> See *id.*, at 48.

<sup>220</sup> See National Survey, *supra* note 33, at 34.

<sup>221</sup> See United Nations Children's Fund, *Mujer, Empleo y Lactancia en Bolivia* [Women, Work and Lactation in Bolivia] 59 (1998).

<sup>222</sup> See *id.*, at 53.