

The Plurinational State of Bolivia

Law and Religion Framework Overview

The following document is part of an ongoing effort to identify the government framework for addressing religious issues and religious organizations in all major countries. It is intended to provide an overview, not an in-depth analysis. Our researchers strive to be as complete and accurate as possible; however, the document is a work in progress. Please use the Feedback button at the top of your screen to provide us with corrections, additional relevant information or other areas you would like to see addressed.

I. Introduction

This overview addresses the political, constitutional, and legal authorities that govern religious policy in Bolivia. It will analyze the context of religion and government, examine constitutional principles governing religious freedom, address the federal and local processes of religious policy, and diagram the government framework in relation to law and religion.

II. Religious Context

The formation of modern Bolivia began when the Spanish arrived and conquered indigenous groups around 1532.¹ Shortly after their arrival, the Spanish introduced Catholicism to the indigenous population. Records of Catholic baptisms, marriages, and confirmations exist from as early as 1566.² After the establishment of colonial Spanish rule, the Roman Catholic Church reached an agreement with the Spanish government that gave colonial authorities certain powers over church affairs in Bolivia.³ After centuries of Spanish colonialism, Bolivia gained independence in 1825. The Catholic Church remained the only religion in Bolivia until 1906 when the government advocated religious tolerance and “permitted the establishment of non-Roman Catholic churches.”⁴ In 1961, the Bolivian government suspended the long-standing practice of mediating the affairs of the Catholic Church.⁵ In time, Bolivia’s religious sphere became increasingly pluralistic as new religions were introduced into Bolivian society.⁶

Since gaining autonomy in 1825, Bolivia has suffered a great amount of political instability as it has experienced nearly 200 coups and countercoups.⁷ After a number of harsh military regimes, democratic civilian rule was established in 1982. Along with political instability, Bolivia has

¹ Federal Research Division Area Handbook Series. *Bolivia A Country Study*. U.S. Government Printing Office: Washington D.C 1989. (7).

²Family Search Organization. “Bolivia Catholic Church Records,” <http://www.state.gov/r/pa/prs/ps/2011/11/176749.htm> (accessed November 29, 2012).

³ *Id.*

⁴ Federal Research Division. *supra* note 1 (89-90).

⁵ *Id.*

⁶ Federal Research Division. *supra* note 1 (92).

⁷ CIA World Factbook. “Bolivia,” <https://www.cia.gov/library/publications/the-world-factbook/geos/bl.html> (accessed November 29, 2012).

faced extreme poverty, illegal drug production, and cultural divisions between the non-indigenous and indigenous population. In addition, Bolivia has experienced a number of human rights abuses. Many mysterious disappearances occurred during the military regimes.^{8 9} Even after democratic rule was established, many Bolivians did not feel that the new democratic system was providing effective political representation.¹⁰ In 2003, a number of demonstrators were murdered while protesting against the government, and seven high-ranking military officials and politicians have yet to be tried for their participation in the massacre.¹¹ In addition, the government has brutally cracked down on civilians suspected of participation in illegal drug-production. Suspects have suffered prolonged detentions, alleged torture, and due process violations by both Bolivian and United States drug enforcement forces.¹² It is clear that the respect for human rights has not always been practiced in Bolivia.

Such instability has also affected religion in Bolivia. Mormons, Jehovah's Witnesses, Seventh Day Adventists, and Pentecostal missionaries have been accused of being agents of the United States government. Because of such accusations, random violent acts have occurred. In 1989 left-wing terrorists murdered two Mormon missionaries from the United States who had been working in rural Bolivia.¹³

In 2009, Bolivia ratified a new democratic constitution, and no major human rights abuses have been reported since the adoption.^{12 14} However, cultural divisions have continued, and Bolivia has had diplomatic problems because of the political change. In September of 2008, the Bolivian Government expelled the United States Ambassador from Bolivia and the position currently remains vacant. However, the United States charge d'affaires and other embassy officials continue to reside in Bolivia.¹⁵ Recently, the two governments have attempted reconciliation by bilaterally signing an agreement to recognize critical differences and pursue improved relations.¹⁶

According to the 2001 census, Bolivia has a total population of about 10 million citizens. Of the population, 78 percent of citizens identified themselves as Roman Catholic, 16 percent as Protestant, 3 percent from other Christian religions, 2.5 percent practice no religion, and less than 0.2 percent claim affiliation with non-Christian faiths such as Islam, Judaism, Buddhism, Shinto, and the Baha'i Faith.¹⁷ In terms of religious participants who habitually practice their religion,

⁸ Artaraz, Kepa. *Bolivia: Refounding the Nation*. London: Pluto Press 2012. (7, 37).

⁹ Human Rights Watch. "Human Rights in Bolivia," <http://www.hrw.org/americas/bolivia> (accessed December 3, 2012).

¹⁰ Artaraz, Kepa. *supra* note 6 (35).

¹¹ *Id.*

¹² Human Rights Watch. "Human Rights Violations and the War on Drugs," entry posted July 1, 1995, <http://www.hrw.org/reports/1995/07/01/human-rights-violations-and-war-drugs> (accessed December 3, 2012).

¹³ Federal Research Division. *Supra* note 1. (92).

¹⁴ Bureau of Democracy, Human Rights, and Labor, U.S. Dep't of State, International Religious Freedom Report 2010: Bolivia, November 17, 2010 <http://www.state.gov/j/drl/rls/irf/2010/148736.htm> (accessed November 29, 2012).

¹⁵ CIA World Factbook. Bolivia, *supra* note 7.

¹⁶ U.S. Dep't of State, Joint Statement by the United States of America and the Plurinational State of Bolivia, November 7, 2011 at <http://www.state.gov/r/pa/prs/ps/2011/11/176749.htm> (accessed November 29, 2012).

¹⁷ The United Nations Refugee Agency. International Religious Freedom Report 2011: Bolivia, July 30, 2012 at <http://www.unhcr.org/refworld/country,,,BOL,,502105d745,0.html> (accessed November 29, 2012).

56.5 percent identify themselves as Catholic, 36.5 as Protestant, and 7 percent belong to other Christian Groups.¹⁸

The traditional beliefs of the indigenous people are interesting aspects of religion in Bolivia. Currently, the indigenous population is estimated to be 55% of the total population. Certain indigenous groups have refused to accept the missionary efforts of Christian denominations who have attempted to replace traditional indigenous beliefs with modern doctrine, principles, and practices.¹⁹ Many characteristics of the pantheistic pre-Columbian era have survived including belief in supreme-beings such as the Sun God and Mother Earth.^{18 20}

III. Constitutional Provisions

Bolivia has attempted to become increasingly secular since the adoption of the new constitution in 2009. The previous 1967 Constitution stated, “The State recognizes and supports the Catholic, Apostolic and Roman, Church and guarantees the public exercise of all other religions. Relations with the Catholic Church are governed by concordats and agreements between the Bolivian Government and the Vatican.”²¹ The new constitution clarifies that Bolivia is now “independent of religion.”²² It is evident Bolivia has made strides to eliminate the official sponsorship of religion, but the government continues to have a special relationship with the Catholic Church. As stated in the 2011 International Freedom Report, “The government has encouraged the Catholic Church to continue its social welfare projects. Written agreements between the government and the Catholic Church, including a five-year framework agreement signed in August 2009, formalized the Catholic Church’s extensive work in the areas of education, health, and social welfare.”²³ Currently, the Catholic Church donates 74% of all charitable donations given by religious organizations in Bolivia.²⁴

In addition to becoming independent of religion, the 2009 Bolivian Constitution has guaranteed a number of religious protections. Article 4 states:

The State respects and guarantees freedom of religion and spiritual beliefs, according to their worldviews.²⁵

Article 14 section 2 dictates:

The State prohibits and punishes all forms of discrimination based on sex, color, age, sexual-orientation, gender-identity, origin, culture, nationality, citizenship, language,

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Encyclopedia Britannica* .15th ed., s.v. “Bolivia.”

²¹ Georgetown University, Political Database of the Americas. “Republic of Bolivia Constitution of 1967,” <http://pdba.georgetown.edu/Constitutions/Bolivia/consboliv2005.html> (accessed December 3, 2012).

²² Georgetown University, Political Database of the Americas. “Republic of Bolivia Constitution of 2009,” <http://pdba.georgetown.edu/Constitutions/Bolivia/bolivia09.html> (accessed November 30, 2012).

²³ The United Nations Refugee Agency, *supra* note 17.

²⁴ *Id.*

²⁵ Republic of Bolivia Constitution of 2009. *supra* note 22.

religion, ideology, political or philosophical association, marital status, occupation, level of education, disability, pregnancy, or any other form of discrimination that has the objective or result of eliminating or undermining the recognition, joy, and action, on conditions of equality, the rights of others.²⁶

Article 21 sections 3 and 5 enumerate the following rights:

A freedom of thought, spirituality, religion and worship, expressed individually or collectively, in public or private for lawful purposes.²⁷

[The Right to] freely express and disseminate thoughts or opinions by any means of communication, oral, written, or visual, individually or collectively.²⁸

The Constitution also clarifies the role of religion in the classroom. Article 86 guarantees:

Schools will recognize and guarantee freedom of conscience and faith and the teaching of religion and spirituality of nations and peasant indigenous peoples, and promoting respect and mutual coexistence among people with various religious options.²⁹

In analyzing these constitutional provisions, it is clear Bolivia protects the freedom of religion, freedom of spiritual beliefs, freedom of thought, freedom of speech, and freedom of worship. Religious freedom can be expressed individually as well as collectively. The government encourages mutual respect for religion through education. As mentioned before, the 2009 Bolivian Constitution has been effectively protecting religious rights in the past few years as there have been no reported cases of religious-rights abuse in both 2010 and 2011.³⁰

IV. Religious Policy Making-Federal Level

Bolivia is officially defined as a “Social Unitarian State”, but the Constitution refers to the state as “free, independent, sovereign, democratic, intercultural, decentralized and autonomous.”³¹ In other words, Bolivia is a republic and political power is dispersed among the legislative, executive, and judicial branches of government.³² These government branches have power to suggest, implement, and interpret policy in regards to religion.

Executive Branch

The Executive branch is headed by the President of Bolivia who is both the chief of state and the head of government. Ministry officials are appointed by the president, and the president and vice president are elected on the same ticket by popular vote for five-year terms. Reelection is

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Republic of Bolivia Constitution of 2009.*supra* note 22.

³⁰ Bureau of Democracy and The United Nations Refugee Agency, *supra* notes 14& 16.

³¹ Republic of Bolivia Constitution of 2009.*supra* note 22.

³² *Id.*

possible only once.³³ Among many powers, Article 172 of the Constitution declares that the president is to:

Appoint Ministers of the State... Comply with and enforce the Constitution and laws, maintain and preserve unity, propose and manage policies, and coordinate the actions of the Ministers of the State.³⁴

Ministerial appointments are relevant to religion in that these appointments dictate who is in charge of overseeing official religious registration. The Ministry of Foreign Affairs of Bolivia has the responsibility of registering religious organizations in Bolivia for tax exemptions, customs, and other legal benefits.³⁵ In the Ministry of Foreign Affairs there are two sub-offices that oversee religious registrations named the Unit of Religion and Nongovernmental Organizations and the Vice Ministry of Institutional Management.^{36 37} Religious organizations must submit an application to these sub-offices to gain official recognition. In order to remain officially recognized, religious groups are required to resubmit annual reports to the Religion and Nongovernmental Organization Office.³⁸ There is no charge for registration, but the application can be complicated and organizations tend to use legal representation to complete the process.³⁹ Currently, the number of registered religions in Bolivia totals over 330.⁴⁰ In addition to the role of the Ministry of Foreign Affairs in regards to religion, the Ministry of Culture is mandated to “protect cultural, religious, and historical treasures.”⁴¹

It is important to note that any religious group that receives foreign-funding cannot be recognized as a registered religion in Bolivia. However, such organizations can enter into a three-year agreement with the Bolivian government which grants the group the same tax-exempt status as any non-governmental organization.⁴² Officials in the United States embassy regularly meet with Ministry of Foreign Affairs and religious leaders in Bolivia to discuss matters of law and religion.⁴³

Legislative Branch

The legislative branch in Bolivia is a bicameral assembly that consists of a Chamber of Senators and a Chamber of Deputies.⁴⁴ The Senate holds 36 seats, and senators are elected by

³³ CIA World Factbook. Bolivia, *supra* note 7.

³⁴ Republic of Bolivia Constitution of 2009. *supra* note 22.

³⁵ Bureau of Public Affairs, *supra* note 14.

³⁶ Ministry of Foreign Relations of Bolivia, “Personnel Chart,”

<http://www.rree.gob.bo/webmre/org/ORGANIGRAMA.pdf> (accessed December 3, 2012).

³⁷ President Evo Morales Supreme Decree No. 29894, February 07, 2009

<http://photos.state.gov/libraries/bolivia/337500/pdfs/Organizaciondelpoderejecutivo.pdf> (accessed December 3, 2012).

³⁸ The United Nations Refugee Agency, *supra* note 17.

³⁹ *Id.*

⁴⁰ Ministry of Foreign Affairs of Bolivia. “National Religious Registry 2010,”

<http://www.rree.gob.bo/webmre/documentos/servicios/d27.pdf> (accessed December 3, 2012).

⁴¹ President Evo Morales Supreme Decree, *supra* note 36.

⁴² The United Nations Refugee Agency, *supra* note 17.

⁴³ *Id.*

⁴⁴ CIA World Factbook. *supra* note 7.

proportional representation from party lists to serve five year-terms.⁴⁵ The Chamber of Deputies consists of 130 seats, 70 of which are directly elected in single-member districts, 7 indigenous deputies are elected from indigenous districts, and the remaining 53 representatives are elected by proportional representation from party lists.⁴⁶ Like the president and senators, deputies serve five year terms.⁴⁷ Legislation can be drafted in both chambers of the Assembly, and after a bill is passed in one chamber it proceeds to the next chamber for further approval.⁴⁸ After a bill is passed by both chambers, it is sent to the President for approval. The President can sign the bill into law or veto it.⁴⁹

The Legislative Assembly can both directly and indirectly influence religion in Bolivia. As Article 158 of the Constitution indicates, the Assembly has power to “make, interpret, repeal, and amend laws”,⁵⁰ and “control and monitor the state bodies and public institutions.”⁵¹ The Constitution also grants the Legislative Assembly oversight power over appointed ministers and directs that the Assembly can “question the initiative of ministers or ministers of state...and agree to censure by two thirds of the members of the Assembly.”⁵²

Within the Chambers, there are legislative committees that oversee specific legislation. In regards to religion, the Human Rights Committee, and the Committee on the Constitution, Legislation, and Elections would likely deal with any religious-oriented legislation. Any tax-related religious issue would likely be seen by the Planning, Economy, and Finance Commission.⁵³ Both Chambers have these committees.⁵⁴ With such granted powers, the Bolivian Legislative Assembly has power to legislate and implement religious policy.

Judicial Branch

The judicial branch consists of a number of lower and higher courts. Of particular interest to religious policy are the Supreme Court of Justice and the Plurinational Constitutional Tribunal. Justices of the Supreme Court are elected for six years by the popular vote from a list that is pre-selected by the Legislative Assembly.⁵⁵ The Constitutional Tribunal Court is composed of seven justices who are either selected by the Legislative Assembly, or elected by popular vote.⁵⁶ In

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Georgetown University Comparative Constitutional Study, under “Origen de las leyes”, Bolivia <http://pdba.georgetown.edu/Comp/Legislativo/Leyes/leyes.html> (accessed December 3, 2012).

⁴⁹ Georgetown University. Comparative Constitutional Study under “Procedimiento de revision de proyectos y aprobacion de las leyes”, Bolivia <http://pdba.georgetown.edu/Comp/Legislativo/Leyes/leyes.html> (accessed December 3, 2012).

⁵⁰ The United Nations Refugee Agency, *supra* note 17.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Georgetown University. “Committees in the House of Deputies,” http://pdba.georgetown.edu/Legislative/Bolivia/BolDip_ComPer.pdf (accessed December 4, 2012).

⁵⁴ Georgetown University. “Committees in the Senate,” http://pdba.georgetown.edu/Legislative/Bolivia/BolSen_ComPer.pdf (accessed December 4, 2012).

⁵⁵ CIA World Factbook. Bolivia *supra* note 7.

⁵⁶ *Id.*

regards to legal interpretation, Bolivia practices a civil law system.⁵⁷ The Constitutional Tribunal rules on issues of constitutionality, which includes any constitutional issues concerning religion. At the same time, the Supreme Court remains the highest court in Bolivia and has the responsibility to rule on religious disputes. The Supreme Court Mission Statement states the Court “exercises the jurisdiction corresponding to being the highest Court in ordinary matters, contentious, contentious-administrative and other specific causes identified in the State Constitution.”⁵⁸ The Supreme Court ruled in an interesting religious dispute in 1986. At that time, the government discovered that there were members of the Hari Krishna religion who were operating in Bolivia illegally. The government pursued deportation, and the case was sent to the Supreme Court. Eventually, the Court heard the case in 1988, and ruled against any actions of deportation.⁵⁹

Regardless, the Bolivian Supreme Court is not completely autonomous from the other branches of government. Not only are Supreme Court Justices nominated through the Legislative Assembly, but the Constitution declares that the Legislative Assembly has the power to impeach and try Justices in both the Constitutional Court and the Supreme Court.⁶⁰ This occurred in 2009, as the Chief Justice of the Supreme Court, Eddy Fernandez, was impeached by the Legislative Assembly for lack of fulfilling his duty.⁶¹

IV. Religious Policy-Local Level

In regards to regional religious policy, Bolivia is divided into nine regional governments known as departments. These nine departments are further divided into providences and municipal governments. Nine governors are elected to govern each department, and each department has a departmental legislative assembly. Both the governors and members of the legislative assemblies are elected to five year terms. The general criteria of the composition of the departmental legislative assemblies are determined by territory, population, and other factors. The local municipal governments are governed by mayors and city councils. Again, the criteria for the construction of regional and municipal councils are determined by local factors. Courts of law across different regions include departmental justice courts and peasant indigenous courts.⁶²

In regards to local religious policy, any nongovernmental organization, including religious organizations and missionary groups, must register with the local governor’s office in addition to registering with the aforementioned Ministry of Foreign Affairs.⁶³ Therefore, in order for a religion to be properly recognized in Bolivia, regional registration is also necessary. In doing so, religious organizations and missionaries can receive official status, tax-exemptions, and other legal privileges.

⁵⁷ *Id.*

⁵⁸ Supreme Court of Justice of the Plurinational State of Bolivia. “Mission Vision and Principles of the Supreme Court,” <http://suprema.poderjudicial.gob.bo/mision.htm> (accessed December 6, 2012).

⁵⁹ Federal Research Division, *supra* note 1.

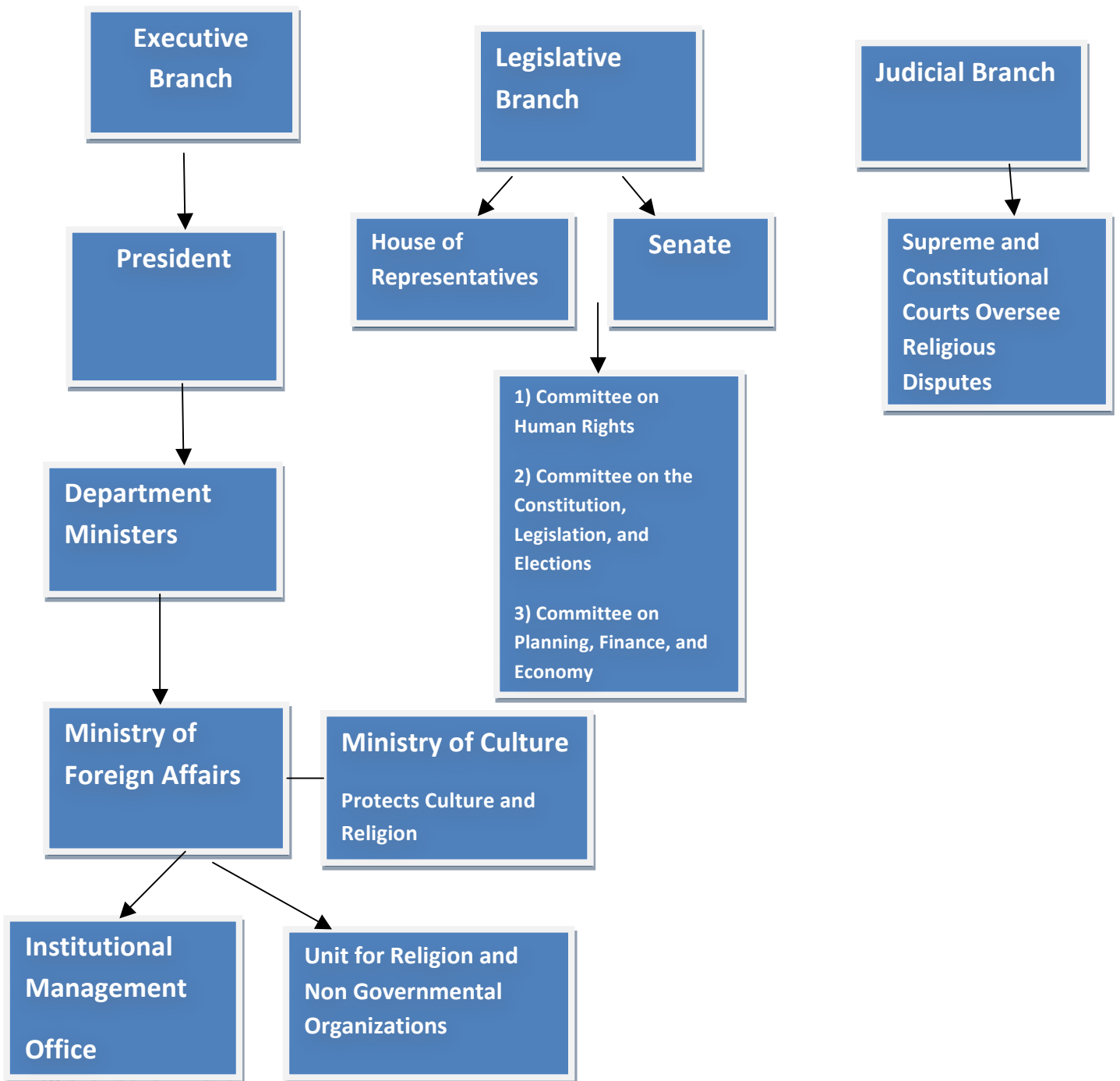
⁶⁰ Republic of Bolivia Constitution of 2009. *supra* note 22.

⁶¹ Landiver, Tristan. “Bolivian Deputies Suspend Chief Justice.” *Infosur Hoy*. http://infosurhoy.com/cocoon/saii/xhtml/en_GB/features/saii/features/2009/05/19/feature-05 (accessed December 3, 2012).

⁶² Republic of Bolivia Constitution of 2009. *supra* note 22.

⁶³ United Nations Refugee Agency. *supra* note 17.

Federal System and Religion



Regional System and Religion

