

● Lima

● La Paz

● Desaguadero

● Sucre

Chapter 7: Bolivia

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Introduction

Bolivia is one of the poorest and most socially unequal countries in South America, with a GDP (gross domestic product) per capita of US\$4200—around one-eleventh that of the United States.¹ Proportionally, it has the largest indigenous population in the region and also one of the largest informal sectors, accounting for roughly two-thirds of all economic activity.² Rates of music, video, and software piracy are estimated to be among the highest in Latin America. The most recent International Intellectual Property Alliance report on Bolivia cited rates of 90% for music piracy and 80% for software piracy (IIPA 2006). The current level of music piracy is probably similar to that of neighboring Peru, which the IIPA listed at 98% for 2009 (IIPA 2010).

Bolivia has not traditionally been a large domestic producer of pirated music and film. Until recently, most of the pirated goods sold in Bolivia were imported from Peru, which has a more developed industrial base and a larger media sector. As in the other countries documented in this report, however, the plummeting cost of reproduction equipment has fostered large-scale domestic production of pirated media and much wider distribution—fueling a pirate mass market that has all but destroyed the tiny, vastly more expensive licit market. In the process, that mass market has also provided access to recorded media for the first time to an emerging population of young consumers, built on Bolivia's remarkable demographic wave (the median age in Bolivia is under 22, and almost 40% of Bolivians are under 15 years of age).

The IIPA has long called for the revision of Bolivia's copyright laws and for stronger enforcement. But beyond the creation of a national intellectual property service (SENAPI) in 1999 and unfulfilled plans, in 2001, to overhaul copyright and create a special police unit dedicated to enforcement (in conformance with a US-led regional trade agreement), recent Bolivian governments have shown few signs of interest in policy change (IIPA 2008). As in other countries, this outcome reflects a range of domestic and international pressures, from the

1 Like the Mexico chapter, this chapter is primarily a work of individual scholarship and therefore provides a narrower account of piracy than the four large country reports (South Africa, Russia, Brazil, and India). Its focus is music piracy, and secondarily, the optical disc market.

2 According to Schneider (2002), the informal economy—mostly street vendors and itinerant workers—represents 67% of Bolivia's total economy. Bolivia did not figure in Vuletin's (2008) account of the informal economy in Latin America. The methodological challenges of measuring the informal economy make all such figures approximate and precise comparisons difficult.

Chapter Contents

327	Introduction
329	The Transformation of the Recorded Music Industry
330	The New Wave
331	Formats and Reproduction Equipment
331	A Short History of Bolivian Piracy
334	From Pirates to Legitimate Distributors?
335	Indigenous Politics
337	About the Study
337	References

higher priority accorded to cooperation with US efforts against drug trafficking to the very real prospect of social unrest if police were to disrupt informal markets on behalf of foreign commercial interests—an explosive dynamic in recent Bolivian history.³ Although there is widespread sympathy among consumers for local artists, global media companies—and especially American companies—are viewed with distrust. Our research showed little or no popular concern for their loss of income, nor is there a compelling account in circulation of how those losses impact the lives of most Bolivians.

Intellectual property (IP) enforcement has also taken a backseat to the drama surrounding Bolivia’s role in the international community following the election of president Evo Morales in December 2005. Widely hailed as the first “indigenous” president in the Americas, Morales has been a polarizing figure, generating strong support among poor Bolivians⁴ but also strong opposition among Bolivian elites and in the international community. Ties to Iran and to Hugo Chavez’s government in Venezuela have complicated external relations, especially with the United States. Following Morales’s expulsion of the US ambassador in September 2008 for allegedly “conspiring against democracy” (BBC 2008), the Bush administration expelled Bolivia from the Andean Trade Promotion and Drug Eradication Act (ATPDEA), which provides for duty-free exportation of goods to the United States.

While many had hoped that relations with the United States would improve following the election of Barack Obama, this has not been the case: Obama ratified Bolivia’s expulsion from the ATPDEA, which took effect in July 2009 (USTR 2010). Tensions between the two countries have filtered down into other areas of policy cooperation, such as anti-narcotrafficking and IP enforcement. Stalemate on these issues, compounded by the very small size of the Bolivian music, film, and software markets and

3 See, for example, the Water Wars in 2000, fought over efforts to privatize Cochabamba’s water supply at the insistence of the World Bank, or the subsequent Gas Wars in 2003, fought over control of profits from Bolivia’s natural gas reserves.

4 Morales won a national recall referendum in August 2008 with 68% of the vote. He was reelected for a second term in December 2009 with 63% of the vote.

by uncertainty about Morales's commitment to international trade agreements, may explain why the IIPA dropped its Bolivia reporting after 2006. Although there are still domestic forums for copyright industry interests—notably SENAPI—the IIPA's long wish list of legal reforms and stronger enforcement mechanisms appears to be, for the near future at least, a dead letter.

The Transformation of the Recorded Music Industry

Piracy has been widely blamed for the almost complete collapse of Bolivia's "legal" music-recording industry and for the exodus of multinational record companies from the country. In 1995, recording industry profits in Bolivia were estimated to have been in the region of \$20 million. The three main national labels—Discolandia, Lauro, and Heriba—accounted for around \$2 million of these profits, but the lion's share (\$18 million) went to multinationals operating in the country (Ortiz and Herrera 2003). During the 1990s, these included EMI Music, BMG, Warner Music, Universal Music, Sony Music, Leader Music, and Santa Fe Records.

Levels of audio and video piracy were already high in the mid-1990s, but according to Andrés López (formerly of Sony Music), it was Bolivia's economic crisis in 1999 that decisively tipped the balance: piracy levels rose from around 65% in 1998 to 85–89% in 1999 (*Tiempos del Mundo* 2000). During this period, the national and international labels jointly organized a series of campaigns to combat piracy, involving television advertisements, newspaper articles, raids on street vendors using hired police officers, and the mass destruction of pirated media. The industry also lobbied for strengthening of Bolivia's 1992 copyright law (Law 1322), pressured the government to tackle copyright infringement, and criticized the state for treating piracy as a "social" rather than a "legal" issue (*La Razon* 2000). They brought several cases against pirate producers to the courts, but the defendants, although generally caught red-handed and admitting guilt, went free after receiving judicial pardons.

Throughout, the major labels made few concessions on pricing, and as the market for \$15 CDs was undercut by pirated CDs selling for only one or two dollars, they came under severe

Acronyms and Abbreviations

IP	intellectual property
VCD	video compact discs
ALBA	Alianza Bolivariana para los Pueblos de Nuestra América (Bolivarian Alliance for the Peoples of Our America)
ATPDEA	Andean Trade Promotion and Drug Eradication Act
IIPA	International Intellectual Property Alliance
SENAPI	Servicio Nacional de Propiedad Intelectual (National Service for Intellectual Property)

financial pressure. By 2003, recording industry profits in the country were estimated to have shrunk to around \$0.6 million (Ortiz and Herrera 2003). All the major international labels had closed their Bolivian offices, Lauro and Heriba had both ceased operating, and Discolandia had cut its staff from 150 to 20. Today, Discolandia—which recently celebrated its fiftieth anniversary—is the only major record label still operating in Bolivia. Rather than competing downmarket, it focuses on the niche market for high-quality recordings of local acts, often incorporating glossy informative booklets.

The New Wave

The declining costs of recording and sound editing also created opportunities for new, low-cost, local labels. Bolivia now has many small digital studios, which are primarily recording local artists for regional markets. Typically, these labels sell their goods at very low prices that make them competitive with pirate products.

A large proportion of these new digital studios might be described as “informal” as they neither pay taxes nor register recordings with performers’ rights organizations (or with SENAPI). According to Wilson Ramirez of Banana Records, some of these labels have their origins in pirate production, which provides both an education in the Bolivian music scene and a means of raising the capital necessary to set up recording studios. Some, he observed, continue their pirate practices clandestinely.⁵

Because of this growth at the low end, the larger cultural impact of the collapse of the Bolivian recording industry is hard to gauge. Although a number of internationally recognized neo-folklore groups have stopped recording for the domestic market, our market observations suggest that overall the number of new music releases in Bolivia has increased. Opportunities for producers and musicians from poor and indigenous backgrounds have expanded as the market for local music has grown. Profits, however, are extremely low, and contracts now typically require that the artist pay production costs to the studio and often take responsibility for distribution. The strongest rationale for these arrangements is not CD sales but the promotion of live performances.

Although the new music labels are commonly criticized for inferior—and sometimes negligible—production values, this has not played a decisive role in the local markets where such products are sold. Nonetheless, a degree of differentiation among the new producers is occurring as some seek out the higher-value segments of the market, including roles in promotion. In this respect, pirate production seems likely to follow the path of other countries documented in this report, in which the most successful pirate producers seek ways of going legit. This may be particularly salient in Bolivia, where the move from the informal to the formal economy is an important and widely held aspiration.

5 Interview with William Ramirez, CEO of Banana Records, October 2008.

Formats and Reproduction Equipment

Because Bolivia has one of the lowest Internet connectivity rates in South America, file sharing, digital downloads, and other forms of web access to music and film remain relatively insignificant factors in the pirate economy.⁶ While the audio cassette remains important, especially in rural regions without electricity mains, the optical disc is now the dominant format. CD sales grew rapidly during the 1990s, but this market was largely restricted to the urban middle-class market. Poorer Bolivians, by contrast, tended to move directly from audio cassettes to VCDs (video compact discs) containing music videos, which became commonplace in the early part of the decade. The rapid development of this market was fueled by a flood of cheap VCD players and reproduction equipment, made in China and Taiwan and dumped on the Latin American market in the early 2000s.

The first low-budget VCD productions by regional indigenous (*originario*) artists were released around 2003 and were followed by a wave of productions by small-scale labels targeted at low-income regional audiences. More recent equipment can usually play multiple formats—CDs, MP3s, VCDs, and now DVDs—allowing the smaller labels to piggyback on the existing consumer infrastructure and increasingly saturate the market. The CD/VCD continues to be the medium of choice in Bolivia, however, because of its lower cost—usually two-thirds of the price of blank DVDs.

A Short History of Bolivian Piracy

As in many other parts of the world, large-scale music piracy emerged in Bolivia with the rise of cassette technology. A market for cassette versions of vinyl records developed in the 1970s with the introduction of cheap radio/cassette players and expanded rapidly in the 1980s as the players became available even in rural peasant communities. The standard distribution method in poorer areas involved vendor ownership of single “master” cassettes, from which copies could be made on demand. By the mid-1990s, much of this artisanal labor had given way to imports, generally smuggled from Colombia and Paraguay, and later Peru as VCDs and DVDs gained popularity. Estimates of the scale of this transborder traffic vary. One vendor consulted in Sucre (in southern Bolivia) in 2007 indicated that some 70% of the pirated music discs sold there were produced in Peru. Our research suggests that, by 2007, the actual percentage was probably much lower, with the difference attributable to increased local Bolivian production.

Regardless, the Peruvian trade remains significant and well known to most vendors. Most of the pirated discs imported from Peru pass into Bolivia via the border town of Desaguadero, situated near Lake Titicaca. According to vendor sources, Peru has several centers of pirate production, including the cities of Juliaca, Arequipa, and Lima, which one vendor in Desaguadero described as “the mega-capital of piracy.” In the early 2000s, distribution to

6 In 2008, only 62,000 Bolivians had broadband Internet access, in a country of over nine million. Only 1.23% owned computers (Arratia 2009).

local Bolivian vendors was controlled by a relatively small number of dealers who traveled to Peru to collect merchandise or who acted as local agents for shipping, often by long-haul buses. According to a vendor based in Cochabamba, Bolivia, who labels his products “El Super Pirata DJ” (DJ Super Pirate):

When I began this business, at first there were only something like four majors, four large-scale pirates who delivered their CDs everywhere. They had their sellers who would take, let's say two thousand CDs to one place, [where the vendors] would choose what they wanted and then take them off to the next place. During the day they would dispose of the two thousand CDs wholesale and in the night go to collect the money owed.

Local vendors often have contacts with dealers based in Desaguadero or La Paz, from whom they can order stock. The distribution network can also be used by vendors to dispatch new Bolivian releases to Peru for mass copying. This often includes the creation of a new, color printed cover (lámina) by Peruvian graphic artists, using elements from the original cover or video images captured from the VCD itself. The creativity involved in the design of these alternative covers is notable and contrasts with other parts of the world (and certain areas of the Peruvian market) where pirates favor artwork that is identical to, and ideally indistinguishable from, the original.

On a visit to Desaguadero in April 2008, on one of the town's three weekly market days, there were no border-control police in sight. Bolivian traders and vendors crossed the frontier unimpeded. A mass of stalls and shops located just inside the Peruvian border sold VCD recordings of Bolivian artists, priced in bolivianos (the Bolivian currency) to simplify cross-border sales. Single discs typically sold for 2Bs (\$0.27 cents), with discounts for bulk purchases.

One of the Peruvian vendors explained that she had taken up selling VCDs in the past year, having previously run a stall serving hot food. She claimed that the profits from these two economic activities were much the same and very limited: “just enough to feed the family.” Another vendor—a man in his late twenties based in a shop opposite the Bolivian frontier—clearly worked on a larger scale. He had trained as a graphic designer but, like so many vendors interviewed, had been unable to find formal-sector employment. Although his business remained worthwhile, he explained that profits had dropped dramatically: Five years ago, “if you invested \$1,000, the next month you would have \$3,000 or \$4,000.” Now the wholesale price of each pirated disc had gotten so low that profits depended on massive sales volume. The principle reason for this drop in prices was a reduction in the cost of CD-burning equipment. He claimed that five years earlier a ten-disc burning tower had cost around \$8,000, which meant that only a few pirate producers with access to significant capital were able to purchase equipment. These producers could then corner the market and maintain higher prices. When we spoke in 2008, the same equipment was retailing for about \$600, making it

accessible to many more people, greatly increasing competition and leading to a reduction in the prices for copied discs.

With wider availability of disc-burning equipment, disc copying is increasingly done by the vendors themselves or by local suppliers. Because the actual discs are generally indistinguishable from one another, high-quality printed covers have become a key differentiator of product categories, signaling quality and commanding higher prices. Some former producers and distributors of copied discs have now branched out into printing and selling the covers—a business in which investment in expensive equipment still confers a technological advantage. Certain disc traders in La Paz now also specialize in selling *laminas*, which are largely produced in Peru.

While finished pirated discs pass into Bolivia through Desaguadero, the trade in raw materials tends to flow the other way. Blank discs, plastic presentation “jewel” cases, and the small, clear plastic bags in which discs are sold first arrive in Iquique, Chile, from China or Taiwan. They are then trucked through Bolivia into Peru via Desaguadero. Similarly, Peruvian pirate producers often travel to La Paz to purchase disc-burning towers. The sale of all these production components is presented as perfectly legal, although the IIPA claims that border duties on such goods are often avoided. Purchased in bulk (in 2008, in La Paz), blank CD/VCDs could be had for about \$0.10, DVDs for \$0.15, and jewel cases for \$0.11.

Desaguadero’s economic dependence on the black market means that overzealous border officials are not tolerated, and attempts to crack down on smuggling have generally been met with fierce local resistance. Tensions rose in 2008, for example, after the Bolivian government attempted to end the smuggling of natural gas canisters into Peru, where they can be sold for nearly five times the subsidized Bolivian price. In June 2008, a public ceremony to mark the opening of a military garrison in Desaguadero, put there to control the border trade, was met by a violent mob of townspeople, which drove the military detachment out of town before ransacking and burning the customs offices. This incident led to much tighter policing of the roads leading to and from Desaguadero, which in turn has made the journey to purchase Peruvian-produced VCD and DVD discs more hazardous for Bolivian vendors and dealers.

A greater chance of arrest is just one of several factors driving a shift toward local Bolivian production. A DVD vendor in La Paz who for many years had traveled to Desaguadero every Friday to purchase stock listed the advantages of using local Bolivian suppliers. In addition to a lower risk of police trouble, she saved a day per week in transit and the 40Bs (\$6) bus fare. Customer satisfaction was also better: faulty DVDs could be returned to the supplier. However, she also stressed that her profits had fallen dramatically. A few years earlier, she had paid a wholesale price of 10Bs (\$1.36) for DVDs, reselling them for 20Bs (\$2.72) each, realizing a profit of 10Bs (\$1.36) per disc. When we spoke in April 2008, the wholesale price was 5Bs and the retail price 8Bs, yielding a profit of only 3Bs (\$0.40) per DVD.⁷

7 Other accounts suggest that this localization of production is not universal: variations in costs over time or by region appear to change this calculation for individuals or groups of vendors. In 2008, journalist Wilfredo Jordán recounted the story of a vendor based in El Alto, La Paz, who had abandoned

There is considerable variation in the prices of pirated DVDs, VCDs, and CDs. Many factors affect price, including format, genre, quality of the cover, degree of vendor competition, region, and even locality within a particular town or city. In larger towns such as Potosí and Sucre, it is common for both pirated and legal VCDs (by regional artists) to be sold for the same standard price of 10Bs (when presented in a jewel case). Many local *originario* artists in these towns, whose work is typically destined for an indigenous migrant audience, own their own stalls in poorer market areas. Some distribute their discs to vendors personally, which provides them opportunities to monitor the circulation of their work and build relationships of trust with vendors. Such practices also reflect the ways in which patterns of consumption map onto class and ethnic hierarchies in Bolivia. Original VCDs are widely available in the poorer peripheral market areas of Sucre but almost never in the more upmarket city center, with its university, beautiful colonial churches, and tourists. Stalls in the city center tend to stock national and international genres—almost without exception pirated—but rarely local or regional *originario* artists.

From Pirates to Legitimate Distributors?

In many Bolivian towns and cities, street vendors need municipal licenses, permits, or union membership in order to trade. In large cities, such as La Paz, there are several main unions representing vendor interests. Concern for local artists and the desire for wider legitimacy in the vendor community have led to some interesting efforts to address piracy at the union level, often in the form of deals with local artists in which the unions agree to act as distributors. In a few cases—notably involving local rock groups—this model has been a success: vendor unions pay artists 7Bs per CD and retail them at 10Bs. However, attempts to scale up this model and to work with music producers have generally failed. As one producer put it:

It was an ideal proposal, but it never worked because obviously we are talking about people who have lived all their lives from informal work. In other words, they never pay anyone a penny, never pay taxes, live from the work of others, and are not disposed, nor are going to become disposed, to change this.

Union representatives, for their part, complain that producers wanted to dump out-of-date and second-rate recordings on them, which they would have been unable to sell.

A particularly ambitious 2006 agreement brought together the La Paz Union of Cinema Workers and the National Federation of Small-Scale Audio-Visual and Music Merchants (dubbed a “pirate union” in many press reports). This agreement required vendors to refrain from selling VCDs or DVDs of national and international films until after their exhibition in

the selling of children’s shoes for the more lucrative pirated-CD business. Initially, the family burnt their own discs, but finding that the material costs in Desaguadero were identical and the labor costs lower, they opted for weekly trips to purchase stock. According to Jordán, the number of traders traveling to the Peruvian border to acquire pirated discs continues to grow.

La Paz cinemas—typically a three-month period following first release. According to union officials, it also stipulated protection in perpetuity for nationally produced films. Still more unusual was the role played by the city administration: the agreement was facilitated by the mayor’s office in La Paz, and police officers were assigned responsibility for enforcement.⁸

Implementation of the agreement, however, broke down almost immediately. Press articles condemned the mayor’s office for giving “a green light to piracy.” Musicians’ rights organizations, such as the Bolivian Society of Authors and Music Composers (Sociedad Boliviana de Autores y Compositores de Música), condemned the lack of respect for the rights of international artists. But the real damage was done by non-unionized vendors and members of other vendor unions, who were not bound by the agreement and undercut its effectiveness.

Indigenous Politics

Given the complexity of current Bolivia-US relations and the recent loss of US bargaining power following Bolivia’s expulsion from the ATPDEA, external pressure seems unlikely to achieve much change in Bolivian law or enforcement practices in the near future. Internal efforts to protect, control, and develop indigenous intellectual property may prove more consequential, however. According to the Foreign Trade Information System (Sistema de Informacion al Comercio Exterior) of the Organization of American States, “The current head of SENAPI, appointed by President Evo Morales, has declared a ‘revolution’ at SENAPI, and currently the office seems to be focused on the registration of traditional knowledge” (USTR 2008:40). Bolivia’s new national constitution, enacted in 2009, and the 2007 United Nations Declaration on the Rights of Indigenous People, which Bolivia was the first member country to sign, may also lead to new law protecting local and indigenous cultural production. The UN Declaration states:

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions. (UN General Assembly 2007:11)

Originario-artist organizations have lobbied the government extensively to extend and protect their rights. The targets of their anger, however, include existing music-rights-collection

8 For background on the movie sector in La Paz and, secondarily, on film piracy and circulation, see Himpele (2008).

societies, whom they accuse of having excluded them and sometimes of having plagiarized their work. This is the other side of intellectual property politics in contemporary Bolivia—not simply the state’s inability to enforce anti-piracy laws and revise copyright legislation but also the belief among some important stakeholders that existing international IP arrangements reinforce domestic and global inequality. This view is not marginal in the region: notably, it figures in the alternative regional trade agreement sponsored by Venezuela in 2003, The Bolivarian Alliance for the Peoples of Our America (Alianza Bolivariana para los Pueblos de Nuestra América, or ALBA), which counts Bolivia and eight other countries as members:

Within the general framework of imbalanced relationships between North and South, the advantages of the North are particularly evident in scientific and technological areas. The international regime of intellectual property is strategically positioned to accentuate the imbalance. The system protects the strongest countries while leaving unprotected the areas in which the poorer countries of the South have a real advantage: the genetic biodiversity of their territories and the ancient knowledge of indigenous and farming communities. (ALBA n.d.)

Precisely how the Bolivian government will manage these issues and develop and enforce its policies remains to be seen. But it seems clear that strong enforcement is not likely to be a viable solution—even if deployed in support of indigenous works. As in many other parts of the world, recorded music in Bolivia is acquiring a primarily promotional role with respect to artistic livelihoods, rather than a direct income-generating function. It would be unrealistic to expect Bolivia or other poor countries to reverse this trend. The important point, in Bolivia and in other countries with comparable economic positions, is that for the vast majority of consumers and artists, this is not a change for the worse. The promotional function, in Bolivia, is not the remnant of a once vibrant music business but rather a new source of value for local artists and a sign of the emergence of a much wider music-consuming public than existed under the old model. How this music economy will provide pathways to legitimacy and more-than-marginal profitability is a different and critically important question. But it is not a new question in Bolivia, where most artists, even some of the best-known regional singer-songwriters, have always had to combine music with other forms of economic activity. For all but a few musicians, this was no different in the era before ubiquitous piracy.

About the Study

This account of piracy in Bolivia is based on the author's interviews with musicians, record producers, and vendors in several parts of the country (as well as in neighboring Peru). It is part of a larger ethnographic research project entitled "Digital Indigeneity," conducted in Bolivia between September 2007 and August 2008 and supported by the British Academy and the UK Arts and Humanities Research Council (AHRC).

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