



INTERNATIONAL TRIBUNAL FOR THE RIGHTS OF NATURE

CASE OF THE INDIGENOUS TERRITORY AND ISIBORO SÉCURE NATIONAL PARK (TIPNIS)

FINAL JUDGEMENT

In the case of the Isiboro Sécure Indigenous Territory and National Park (hereinafter 'TIPNIS'), the International Rights of Nature Tribunal, (hereinafter 'the Tribunal' or 'the International Tribunal'), having considered the report of the commission that made the on-site visit between August 15th and August 22nd of 2018, gives the following judgement.

A. Powers of the International Rights of Nature Tribunal

1. The Tribunal is established with the aim of promoting universal respect for, and of guaranteeing, the rights established in the Universal Declaration of the Rights of Mother Earth (hereinafter the Declaration), in order to promote the harmonious coexistence of humans and the other of beings of Nature.
2. The Declaration was approved by the World Peoples' Conference on Climate Change and the Rights of Mother Earth, held in the city of Cochabamba, Bolivia from April 19th to the 22nd of 2010. At that conference, 142 countries were represented by delegation officials, groups and social movements. This Declaration constitutes the first international instrument of civil society that considers Nature as a subject of rights, thus overcoming the anthropocentric paradigm of protection of nature.
3. Given that the facts with which this case is concerned occurred within the territory of the Plurinational State of Bolivia, the subject matter over which the Tribunal has jurisdiction includes the international treaties ratified by that State, as well as its internal regulations, among which Law No. 71 of the Rights of Mother Earth, promulgated on December 21st, 2010, and which incorporates the content of the Declaration into Bolivia's legal regulations. The Tribunal has jurisdiction to investigate and rule on any violation of rights, or breach of responsibilities set forth in the Declaration, whether committed by international organizations, states, private or public legal entities or individuals. In addition, the Rights of Nature recognized in other legal instruments, such as the Constitution of the Republic of Ecuador can serve as a reference.
4. Likewise, regarding the allegations about human rights violations, this Tribunal finds it opportune to pronounce itself on the basis of the close relationship that indigenous



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peoples have with Nature, as their defenders. In this sense, this Tribunal will be competent on the subject of the violations of the Universal Declaration of Human Rights of 1948, the Pacts of Civil and Political Rights and of Economic, Social and Cultural Rights of 1966, the American Convention of Human Rights of 1969, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988, the Convention 169 of the International Labor Organization of 1989 and the United Nations Declaration on the Rights of Indigenous Peoples of 2007.

5. The Great Jurisprudence¹ will be taken as reference. This is an ethical framework that inspires the Declaration, which postulates that we are all part of the universe, and thus we have to respect each other, and consequently, recognize and accept the intrinsic nature of Mother Earth. It is therefore necessary to protect all species that live together with the human species, which implies that Nature cannot continue to be objectified, and consider it as a mere merchandise to which we cannot take advantage of, exploit, degrade, minimize and even silenced.
6. It also refers to "Wild Law", meaning laws that are designed to deepen the connection between nature and all human beings and Nature by guiding humans to act in ways that are compatible with the Great Jurisprudence and so promote harmonious coexistence within the Earth Community;² Wild laws enable human societies to exist in harmony with Nature by establishing parameters within the legal system that are designed to ensure that the human species contributes to the healthy functioning of the Earth Community by upholding the rights and freedom of all beings to play their unique roles within that community. Wild laws typically focus on promoting ways of behaving and acting that maintain healthy relationships within the Earth community rather than on prohibiting or authorizing specific acts. In this way the intention and duty to protect Mother Earth in relation to the rights of other communities to live and self-regulate are born.

B. Procedural history of the Case

7. On November 07 and 08 of 2017, the Tribunal - chaired by Tom Goldtooth (Diné and Dakota), met in Bonn, Germany and heard about the case. The testimonies of the following people, were presented: president of the Women's Organization, Marquesa Teco; the president of the Subcentral TIPNIS, Fabián Gil and, of other experts. The purpose of these appearances was to exhibit the implications of the road project Villa

¹ Terms used and developed by the author Cormac Cullinan , in his book *El Derecho Salvaje (Un manifiesto por la justicia de la Tierra)*, Ecuador, 2018.

² Cormac Cullinan , *The Wild Law (A manifesto for the justice of the Earth)*, p.28-69.



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Tunari - San Ignacio de Moxos that intends to cross the heart of the TIPNIS, especially to highlight the damages it would cause to their communities, to forests, rivers, and animals. In addition, the alleged violation of the rights of the indigenous peoples of Mojeño Trinario, Chimane and Yuracaré that inhabit the TIPNIS by the current Government of the Plurinational State of Bolivia was exposed. Specifically, evidence was presented of how the police forces of the State repressed a peaceful protest march in the town of Chaparina by police forces of the State in 2011. It was also noted that although Law No. 180 of October 24th, 2011 protected the Isiboro Sécore National Park and Indigenous Territory from development, this protection was cancelled by Law No. 969 enacted on August 13th, 2017, cancels the protection of the Isiboro Sécore National Park and Indigenous Territory consigned in Law No. 180 of October 24th, 2011, thereby giving free rein to the construction of the aforementioned highway project.

8. During the Tribunal hearing, the judges were asked to form a commission to visit Bolivia in order to verify the claims made and to collect information on the alleged violation of the Rights of Nature by the construction of the road. The Tribunal appointed a Commission which comprised three experts, Alberto Acosta (Ecuador), Shannon Biggs (USA), and Enrique Viale (Argentina), and a representative of the Secretariat of the Tribunal, Hana Begovic (Sweden). The Commission that made an on-site visit to Bolivia between August 15th and 22nd, 2018. Alberto Acosta and Shannon Biggs, were judges of the Tribunal in Bonn but since the report of the Commission was used as evidence in developing this judgement they recused themselves from the final deliberations of the Tribunal in order to avoid any possible conflict of interest and did not sign this judgement. In the light of the importance of this case and the fact that two of the judges could not participate in the final deliberations, the Bonn Tribunal was expanded by the addition of 26 judges who had participated in previous Tribunal hearings or that have been called to participate as judges in this sentence given their ethical characteristics and carefully analyzed personal and professional trajectory..
9. The Commission visited the community of Trinidadcito in the TIPNIS, where around 200 indigenous people of the different communities of the Territory met, in addition to other indigenous authorities of the Southern Bolivian Amazon to denounce the violations of their rights and the Rights of Nature.
10. The Commission also visited the cities of Santa Cruz, Cochabamba, Trinidad and La Paz, where it met with dozens of people from various governmental and non-governmental organizations; and participated in several meetings with university students, citizens and media.
11. The Commission, accepted an invitation from the Indigenous Council of the South (CONISUR) and accompanied by representatives of National Human Rights Institutions



and Media, tried to meet with indigenous and intercultural settlers of the area south of TIPNIS called Polygon Seven. However, upon entering the town of Isinuta they encountered hostile conditions that prevented them achieving this objective.

12. In addition to the information gathered in the meetings described, the Commission received and reviewed thousands of pages of documentation, official reports, environmental studies and legal historical records in an effort to ensure that its report reflects a thorough and careful study from a variety of perspectives.
13. The Commission issued a report which describes the situation of the TIPNIS, the status of the road project Villa Tunari-San Ignacio de Moxos, its effects, colonization and deforestation, the impact on the way of life of the people, the resistance to the construction of the road, observations about the consultation process, the rights of the defenders of Nature and of the indigenous peoples, and states the Commission's conclusions and recommendation for the judgement. The Commission's report specifically draws attention to the threats to the rights as described in the Universal Declaration of the Rights of Mother Earth and other international agreements, as well as the Bolivian Law of Mother Earth: to life and to exist, to be respected; to water as a source of life, to the regeneration of its biocapacity, to the continuation of natural cycles and vital processes free of human disruptions; to maintain their identity and integrity as differentiated, self-regulated and interrelated beings; and to the rights of indigenous peoples and defenders of Nature.

C. Facts of the case

C.1. About the Isiboro Sécure Indigenous Territory and National Park TIPNIS

14. The evidence presented to the Tribunal for consideration indicates that the TIPNIS is the most biodiverse region in Bolivia³, and is home to 858 recorded species of vertebrate animals. Among them, there are 470 species of birds, 108 mammals, 39 reptiles, 53 amphibians and 188 species of fish. One of the critically endangered birds in grave danger of extinction living in this area is the Horned Curassow (*Pauxis unicornis unicornis*). According to the National Service of Protected Areas, 15 years ago there were only 200 of these birds left in the TIPNIS, Carrasco and Amboró parks. There are also 178 registered species of insects. At plant level, there are around 2,500 species. The TIPNIS is home to different types of forests and ecosystems: sub-Andean, foothill and flooded forest that generate important environmental services⁴. The TIPNIS is the region of Bolivia where the most rain falls, with precipitation that exceeds 3,000

³ TIPNIS Management Plan, 2002, p. 215

⁴ Strategic Environmental Assessment of the TIPNIS, 2011, p. 74-77



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mm per year. The ecological communities of TIPNIS are one of the most important sources of oxygen and water in Bolivia.

15. Additionally, it is also one of the largest pristine forest complexes in the country, and is of vital importance for the regional and national management of water in Bolivia. The concentration of bodies of water in this area means that conserving this area is of fundamental importance and because it is a zone of very high fragility, a high level of protection is necessary⁵.
16. On November 22, 1965, the Isiboro Sécure National Park, with an area of 1'225,347 hectares, was created by Law Decree No. 7401 of the Government of Bolivia.
17. According to the documentation that the Tribunal has reviewed, the indigenous people that live in the TIPNIS are the Chimane, Mojeño Trinitario and Yuracaré. These peoples have found this place, to be their last refuge against the national society that historically has tried to destroy their ways of life.⁶
18. On September 24, 1990, as a result of the historic "March for the Territory and for Dignity" that the indigenous peoples carried out from the Amazon to the highland city of La Paz, the TIPNIS also acquired the status of Indigenous Territory through the enactment of Supreme Decree No. 22610. In 2009, the National Government recognized a total of 1,091,656 hectares as collective property as TIPNIS indigenous territory⁷.
19. The Tribunal understands that the Chimane, Mojeño Trinitario and Yuracaré peoples of the TIPNIS have their own organizational structures - social, political and economic - for the development of their collective life based on the traditional activities of hunting, fishing, gathering and agriculture, which are very closely linked to the biovegetative rhythms of the three existing ecosystems in the TIPNIS.⁸
20. Given that the information considered by the Tribunal, the Indigenous Territory and Isiboro Secure National Park, due to the dual protection category, it is part of a strategy of co-management between organic representatives of indigenous peoples and the

⁵ TIPNIS Management Plan, 2002, p. 13

⁶ Strategic Environmental Assessment of the TIPNIS, 2011, p. 3

⁷ Executorial Title TCO- NAL-000229 of February 13, 2009.

⁸ TIPNIS Management Plan , 2002, p. 22.



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National Protected Areas Service of Bolivia (SERNAP) as it is established in article 385.II of the Political Constitution of the Plurinational State of Bolivia.

21. The Management Plan -and the respective Operationalization Plan- developed by the Subcentral of TIPNIS⁹ and SERNAP, which is responsible for the conservation and co-management of the National Park and Indigenous Territory, is a planning instrument that divides the area into the following zones: 1) the Core Zone, which requires extreme protection because it consists of the most biodiverse and fragile area of the TIPNIS; 2) Traditional Management Zone, which is intended to preserve ecosystems with minimal intervention associated to the traditional indigenous productive systems of hunting, fishing and gathering, and, 3) Area of Use of Natural Resources, where communities can use and take advantage of resources for commercial purposes through specific Management Plans that ensure sustainability.

22. In the Core Zone of TIPNIS there are species of flora and fauna in danger of extinction, endemic or with different degrees of vulnerability (e.g. otter and swamp deer). Its conservation is fundamental since it houses the springs of the main basins and is the guarantor of the continuity of the water regime. In this area, there are unique land formations, that are especially fragile, which was the reason for the creation of the Protected Area.

23. Within the TIPNIS, the Bolivian State, through different legal provisions, has been establishing oil exploration and exploitation blocks (Sécure 19, Sécure 20, Chispani and Río Hondo) that covers approximately 35% of the National Park and Indigenous Territory, and that even overlap their Core Zone. Although at the present time there is no evidence of hydrocarbon activity, it is clear that there is a desire to expand the exploration and exploitation of hydrocarbons into protected areas such as TIPNIS.

24. In the south of the TIPNIS, there is an area called the "colonization area" - also known as "polygon seven" - established in the second half of the 20th century by Andean migrants who base their economy on the production of coca leaf. According to official sources¹⁰ and testimonies of the indigenous people of TIPNIS¹¹, the presence of the colonizers has created conflict from the beginning due to the destruction of the biodiversity caused by the monoculture of coca plantations and the annual expansion of the agricultural frontier for this activity.

⁹ Own name of the TIPNIS Organization that has territorial authority.

¹⁰ EAE, Management Plan.

¹¹ In Situ Commission Report, TIPNIS Case.



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25. Given the information analyzed, the colonization process was facilitated in the 1970s by the opening of a road to facilitate oil prospecting¹² and it grew in the 1980s with the mining crisis in Bolivia and the neoliberal relocation at the time, which took place simultaneously with the boom in mass coca production¹³. The data shows a continuous expansion into the interior of the TIPNIS: in 2002, the colonization area covered an area of 92,000 hectares and currently occupies approximately 123,000 hectares. The 2001 Census recorded 7,578 migrant settlers and 741 indigenous people in the area, and the 2012 Census recorded a total of 13,040 settler migrants, evidencing changing demographics as the settler population increases in the face of the decrease in the indigenous population that registered only 385 people.¹⁴
26. The growing colonization in the southern area of TIPNIS has caused radical changes in the traditional ways of life of indigenous families, their patterns of occupation of space and integral use of the resources of the forest and the river.
27. The annual expansion of the agricultural frontier produces an increase in deforestation. The information indicates that the TIPNIS lost 46,000 hectares of forest between 2000 and 2014, with the rate of forest loss in the "polygon seven" being eight times higher than in the rest of the TIPNIS, doubling that of the entire Bolivian Amazon¹⁵.
28. According to the report of the United Nations Office on Drugs and Crime (UNODC), between 2015 and 2016 there has been a 43% increase in coca plantations in the "polygon seven". For the year 2017, this agency revealed the existence of 1,109 hectares of coca leaf crops, a figure that represents 709 hectares more than the 400 officially reported by the Bolivian Government.
29. The Tribunal has considered documentation from the Ministry of Environment and Water¹⁶, and of the National Service of Protected Areas¹⁷, among others¹⁸ which reveal

¹² Strategic Environmental Assessment TIPNIS, 2011, p. 124

¹³ Ibidem, p. 28

¹⁴ In Situ Commission Report, TIPNIS Case.

¹⁵ Current Biology, 2018 cited in the Report of the In Situ TIPNIS Commission.

¹⁶ Strategic Environmental Assessment TIPNIS, 2011, p. 133

¹⁷ TIPNIS Management Plan, 2002, p. 41

¹⁸ Ombudsman's Office, Situation of the Rights of Indigenous Peasant Indigenous Peoples of the Plurinational State of Bolivia, 2016, p. 105.



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links between the production of coca leaf in the "polygon seven" and drug trafficking activities.

30. This Tribunal also notes that the northern area of TIPNIS is known to be seriously threatened by colonization and deforestation. This area, adjacent to the so-called Bosque de Chimanes, shows a worrying pressure on the part of illegal loggers and settler settlements.
31. The Tribunal considers that the Chimanes Forest to be part of the integrated territorial space shared by the indigenous peoples of TIPNIS. In 1990 through Supreme Decree No. 22611, the Bolivian State recognized another indigenous territory- the Multiethnic Indigenous Territory (TIM¹⁹) and recognized that the "area of former forest concessions" that according to the aforementioned decree must be recognized as property of the indigenous peoples of the TIM.

C.2. About the road project Villa Tunari-San Ignacio de Moxos

32. The road project that aims to connect the cities of Cochabamba and Trinidad - crossing the core area of the Indigenous Territory and Isiboro Sécure National Park - dates from 1985²⁰. In the year 2003, by Supreme Decree²¹ the stretch between the towns of Villa Tunari and San Ignacio de Moxos was incorporated into the main road network.
33. On September 22nd, 2006, through Law No. 3477, the preparation of the Final Design Study and construction of the Villa Tunari - San Ignacio de Moxos section through the core area of the TIPNIS was declared a national and departmental priority.
34. The Bolivian Government signed a loan agreement²² with the Development Bank of Brazil (BNDES) for the sum of 332 million dollars. The Bolivian counterpart would be 83 million dollars and the project would have a total cost of 415 million dollars and would be executed by the Bolivian Highway Administration (ABC) and the Brazilian company OAS²³.

¹⁹ Acronyms correspond to original names in Spanish.

²⁰ Law No. 717 of February 15, 1985

²¹ DS No. 26996 of April 17, 2003

²² <http://www.derechoteca.com/gacetabolivia/decreto-supremo-0774-del-20-enero-2011/>

²³ <https://tipnisboliviaorg.files.wordpress.com/2018/10/contrato-abc-oas-218-08-gct-obr-bndes.pdf>



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35. In 2008 the Base Contracting Document (DBC)²⁴ that accompanied the International Public Bid 001/2008 was signed -which was awarded the contract for the construction of the highway with a length of 306 km and the loan contract for its financing.
36. Although the DBC was for a single stretch of 306 km, the construction of the highway was divided into three sections:
Section I of 47 km. from Villa Tunari to Isinuta;
Section II of 177 km. from Isinuta to Monte Grande - traversing the TIPNIS; and,
Section III of 82 km. from Monte Grande to San Ignacio de Moxos.
37. The aforementioned division was approved by the ABC, ignoring the recommendations of SERNAP²⁵ and the Vice Ministry of Transportation as a Competent Sector Organization²⁶, that the entire project consisting of the 3 sections: Villa Tunari-Isinuta, Isinuta-Monte Grande and Monte Grande-San Ignacio de Moxos, should be assessed as integral whole.
38. In 2009, the Environmental Records of sections I and III were processed, while the respective Environmental Impact Assessment Studies (EEIA) were prepared. As of the date of this Judgement, section II that crosses the TIPNIS does not have an Environmental Record or EEIA; and an integral environmental assessment of the Villa Tunari-San Ignacio de Moxos road project has not been carried out.
39. In 2016, section I was completed which extends 47.30 km. that go from Villa Tunari to Isinuta in the extreme south outside of TIPNIS. The road was made under direct contracting modality by the Bolivian Construction Company (EBC) and the Road Maintenance Association (AMVI).
40. At the other end, from San Ignacio de Moxos to Monte Grande there is an unpaved road which is currently under construction²⁷. Section III -according to the EEIA and existing Environmental Record- has an extension of 82 km outside the Isiboro Sécore National Park and Indigenous Territory. In 2015, the Bolivian Government announced the modification of this road section augmenting its extension in 48.3 km to Santo Domingo

OAS is being researched in various countries of Latin America (Brazil, Peru, Chile) as a company that corrupted civil servants to get its projects off the ground.

²⁴ [HTTPS://TIPNISBOLIVIAORG.FILES.WORDPRESS.COM/2018/10/DBC-RUTA-F24-ABC-MARZO-2008.DOC](https://tipnisbolivia.org.files.wordpress.com/2018/10/DBC-RUTA-F24-ABC-MARZO-2008.DOC)

²⁵ Notes SERNAP - DMA - 047/2009 of January 27, 2009 and SERNAP - DMA 376/2009 of May 27, 2009

²⁶ Technical report MOPSV / VMT / DGTTF / CBP No. 0173/2009 of June 2, 2009

²⁷ Report Commission in Situ Case of TIPNIS



to the interior of TIPNIS²⁸, without conducting new studies or granting corresponding licences.

41. According to the information presented to the Tribunal for consideration, between 2017 and 2018 the Bolivian Government constructed three bridges inside the TIPNIS in the so-called section II: Isiboro Bridge, Ibuelo Bridge and Sazama Bridge, all of them in the "polygon seven"²⁹.

C.3. On the social and legal actions around the Villa Tunari road project - San Ignacio de Moxos

42. According to the information considered by the Tribunal, the indigenous peoples of the TIPNIS, have rejected the Villa Tunari-San Ignacio de Moxos road project, from the beginning.
43. On August 15th, 2011, around a thousand indigenous people from the lowlands of Bolivia left for La Paz, from the city of Trinidad on the 'Eighth March of the Indigenous Peoples', in defense of the TIPNIS. On September 25, 2011, this peaceful mobilization was violently repressed by the Bolivian police in the town of Chaparina, leaving scores of wounded; men, women and children detained without the guarantees of due process and several other human rights violations found in the report of the Ombudsman³⁰.
44. On October 24th, 2011, due to pressure from the 'Eighth Indigenous March', the Plurinational Legislative Assembly approved Law No. 180, which prohibited "the Villa Tunari-San Ignacio de Mojos highway, or any other, from going through the TIPNIS ", in addition, the protection of the National Park and Indigenous Territory was declared, making it possible to adopt any protection measure that reverses, annuls or dissolves any act that violates the rights of the TIPNIS.
45. On February 10th, 2012, the Bolivian Government approved Law No.222 entitled 'Consultation of the indigenous peoples of the TIPNIS' with the aim of "defining whether or not development should be prohibited within the Isiboro Sécure Indigenous Territory and National Park, if it should be untouchable (*intangible*) or not, and to enable the development of the activities of the indigenous peoples of Mojeño-Trinitario, Chimane

²⁸ http://www.la-razon.com/nacional/Vicepresidente-San-Ignacio-Monte-Grande-Santo-Domingo_0_2297170323.html

²⁹ <http://www.lostiempos.com/actualidad/economia/20180812/empresas-ya-concluyeron-tres-puentes-poligono-7-del-tipnis>

³⁰ Ombudsman's Office. Ombudsman's Report regarding the violation of human rights in the Indigenous March. 2011. Item 15.



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and Yuracaré, as well as the construction of the Villa Tunari Road - San Ignacio de Moxos.”

46. On April 29th, 2012, the indigenous peoples began the 'Ninth March' in rejection of Law No.222 and in defense of Law No.180. The march of the indigenous people came to La Paz after 61 days of walking, but they were not received by the President of the Plurinational State of Bolivia.
47. According to the information considered by the Tribunal, the Bolivian Government developed a consultation process - despite the express rejection of the TIPNIS Indigenous people - between July 27 and December 7 of the year 2012.
48. According to Bolivian Government sources³¹, 58 of the 69 communities that were visited agreed to be consulted, of which 55 spoke in favor of the construction of the Villa Tunari - San Ignacio de Moxos highway, and 57 of the 58 protested against changing the inviolable status of TIPNIS.
49. According to the Report of the Inter-Institutional Federation of Human Rights and the Permanent Assembly of Human Rights of La Paz -institutions that accompanied the consultation and issued a report parallel to that of the government-, at least 30 communities that were visited rejected the road project Villa Tunari - San Ignacio de Moxos; and notes numerous irregularities and violations of the national and international principles and standards of the right to prior, free, informed and good faith consultation³².
50. The government waited several years to implement the results of this highly questionable consultation process. When several TIPNIS leaders had changed, on August 13th, 2017, the government of Bolivia, after a hasty parliamentary approval process, promulgated Law No.969 that provides for the repeal of Law No.180, "... in the framework of the results of the previous, free and informed consultation (...)". The new norm, in force at the date of this Judgement, eliminates the protection status of the TIPNIS and creates the legal conditions to develop road infrastructure works within the Indigenous Territory and National Park.

³¹ Observation and follow-up report on the prior, free and informed consultation of the indigenous peoples of the Isiboro Sécore Indigenous Territory and National Park. Intercultural Democratic Strengthening Service (SIFDE). La Paz - Bolivia 2012

³² International Federation of Human Rights (FIDH), Permanent Assembly of Human Rights of Bolivia (APDHB). Verification Report of the Consultation carried out in the Indigenous Territory Isiboro National Park - Sécore. Available at <http://www.tipnisesvida.net/informeFIDH.pdf>



D. Analysis of violations of the Rights of Nature in the Case

D.1. Legal Framework applicable to the Case

51. The Universal Declaration of the Rights of Mother Earth is a milestone in the evolution of the concept of protecting Nature (as an object) to respecting it (as a subject). For the Tribunal, this recognition has two fundamental effects: (i) Nature has specific rights that are on the same level in the hierarchy of rights as other fundamental rights; and, (ii) since the Rights of Nature are fundamental rights, they may be protected by the use of interdicts (injunctions) against arbitrary decisions that seek to limit these rights.
52. For the Tribunal, the TIPNIS is part of our Mother Earth, and therefore, it has the right to life, to be respected, to its regeneration, to continue with its vital cycles and processes, free of human disruptions, to maintain its identity and integrity, to be self-regulated, and interrelated, to water as a source of life, to integral health, free of pollution and toxic waste, not to be genetically altered and modified, and to its full and prompt restoration; in accordance with the provisions of Art.2 of the Universal Declaration of the Rights of Mother Earth.
53. On the other hand, Article 3 of the Declaration states that all humans are responsible for respecting and living in harmony with Mother Earth, under this judgment, the Tribunal considers necessary to note the following obligations as those regulations are a responsibility of individuals, States, in public and private institutions:
1. To act according to the rights and obligations recognized in the Declaration;
 2. To recognize and promote the application and full implementation and enforcement of the rights and obligations established in this Declaration;
 3. To ensure that the pursuit of human well-being contributes to the well-being of Mother Earth, now and in the future;
 4. To establish and effectively apply norms and laws for the defence, protection and conservation of the Rights of Mother Earth;
 5. To respect, protect, conserve, and where necessary, restore the integrity of the vital ecological cycles, processes and balances of Mother Earth;
 6. To guarantee that the damages caused by human violations of the inherent rights recognized in the Declaration are rectified and that those responsible are held accountable to restore the integrity and health of Mother Earth;
 7. To empower human beings and institutions to defend the rights of Mother Earth and all the beings that make it up;
 8. To establish precautionary measures and restrictions to prevent human activities leading to the extinction of species, the destruction of ecosystems or disruption of ecological cycles;



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9. To promote and support practices of respect for Mother Earth and all the beings that compose the Earth, according to their own cultures, traditions and customs;
10. To promote economic systems that are in harmony with Mother Earth and in accordance with the rights recognized in this Declaration.

54. Also, the Tribunal considers the Rights of Nature recognized in the Constitution of Ecuador, which says:

Art. 71.- Nature or Pacha Mama, where life is reproduced and carried out, has the right to be fully respected in its existence and the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.

Every person, community, town or nationality may demand from the public authority the fulfillment of the Rights of Nature. To apply and interpret these rights, the principles established in the Constitution will be observed, as appropriate.

The State will encourage natural and legal persons, and groups, to protect Nature, and promote respect for all the elements that make up an ecosystem.

Art. 72.- Nature has the right to restoration. This restoration will be independent of the obligation of the State and natural or legal persons to indemnify individuals and groups that depend on the affected natural systems.

In cases of severe or permanent environmental impact, including those caused by the exploitation of non-renewable natural resources, the State will establish the most effective mechanisms to achieve restoration, and will adopt the appropriate measures to eliminate or mitigate the harmful environmental consequences.

Art. 73.- The State will apply precautionary and restriction measures for activities that may lead to the extinction of species, the destruction of ecosystems or the permanent alteration of natural cycles.

The introduction of organisms and organic and inorganic material that can permanently alter the national genetic heritage is prohibited.

Art. 74.- Individuals, communities, peoples and nationalities shall have the right to benefit from the environment and the natural riches that allow them to live well. The environmental services will not be susceptible of appropriation; its production, provision, use and use will be regulated by the State.

55. Bolivia has been the proponent of the recognition of Mother Earth as a subject of law, under the current national legislation the Tribunal sees fit to indicate Law No.071 on



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the Rights of Mother Earth, of December 21st, 2010, which recognizes the interdependence and complementarity of all beings that make up Nature, including indigenous peoples³³. Specifically, article 7 establishes the following rights of Mother Earth:

To life: It is the right to maintain the integrity of life systems and the natural processes that sustain them, as well as the capacities and conditions for their regeneration.

To the diversity of life: It is the right to preserve the differentiation and variety of the beings that make up Mother Earth, without being genetically altered or artificially modified in its structure, in such a way that its existence is threatened, operation and future potential.

To water: It is the right to the preservation of the functionality of the water cycles, of their existence in the quantity and quality necessary for the support of the life systems, and their protection against pollution for the reproduction of the life of Mother Earth and all its components.

To clean air: It is the right to the preservation of the quality and composition of air for the maintenance of life systems and their protection against pollution, for the reproduction of the life of Mother Earth and all its components.

Balance: It is the right to maintain or restore the interrelation, interdependence, complementarity and functionality of the components of Mother Earth, in a balanced way for the continuation of their cycles and the reproduction of their vital processes.

To restoration: It is the right to the timely and effective restoration of life systems affected by human activities directly or indirectly.

To live free from contamination: It is the right to the preservation of Mother Earth of contamination of any of its components, as well as toxic and radioactive waste generated by human activities.

- 56.** In Bolivia on October 15th, 2012, Law No.300 of the Framework of Mother Earth and Integral Development for Living Well was issued, which establishes the respect and application of these rights against any other right, and it is important to emphasize that the Rights of Mother Earth cannot be opposed with another, given that the first is a collective right of public interest, which is prioritized over others, having the character of a human right and guaranteeing life and respect for it:

Art. 4. (PRINCIPLES). The principles that govern this Law in addition to those established in Article 2 of Law No. 071 on the Rights of Mother Earth are:

1. Compatibility and complementarity of rights, obligations and duties. A right cannot materialize without the others or cannot be over the others, implying the interdependence and mutual support of the following rights:

³³ Law No. 071: Art. 3-4



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- a) Rights of Mother Earth as a collective subject of public interest.
- b) Collective and individual rights of indigenous peoples and indigenous peoples, intercultural and Afro-Bolivian communities.
- c) Fundamental, civil, political, social, economic and cultural rights of the Bolivian people to Live Well through their integral development.
- d) Right of the urban and rural population to live in a just, equitable and solidary society without material, social and spiritual poverty; as well as its articulation with the obligations of the Plurinational State of Bolivia and the duties of society and people.

57. Likewise, Law No. 07 1 in its Article 8 states that:

"The obligations of the State are to develop public policies of prevention, protection, precaution to prevent human activities from leading to the extinction of beings, the alteration or destruction of human beings; life cycles that include the cultural systems that are part of Mother Earth; develop forms of production and consumption patterns balanced with Mother Earth for Living Well; defend Mother Earth in the plurinational and international sphere and promote the recognition and defense of their rights." In turn.

Article 10 of Law No. 300 in turn specifies the obligation of the State to:

"Create the necessary conditions for the accomplishment of the compatible and complementary exercise of the rights, obligations and duties to Live Well, in harmony and balance with Mother Earth".

58. On the other hand, the Political Constitution of the Plurinational State of Bolivia in view of the fact that Nature is fundamental for the life of the peoples in its article 33 establishes: "the right to live in a healthy, protected and balanced environment" and "states that this right must allow all individuals and collectivities, of the present and future generations, in addition to other living beings, to develop in a normal and permanent way". At the same time, article 34 sanctions: "Any person, individually or on behalf of a community, is entitled to exercise legal actions in defense of the right to the environment, without prejudice to the obligation of public institutions to act ex officio in front of the attacks against the environment".

59. The Tribunal wishes to emphasize that, as established in the Constitution of the Plurinational State, that of Bolivia in its Article 373 "water is a fundamental right for life" in accordance with the provisions of national laws, as well as the right to water is essential for sustaining and functionality of systems of life (Art. 7.3 Law No.071 and Art.27 Law No.300), for as the constitutional duties the State "will prevent the rising shares and intermediate zones of the rivers that cause damages to the ecosystems or



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decrease the flows" (Article 376, CPE) and as established in Article 27 of Law No.300 "the State must develop policies for the care and protection of the headwaters of the basin, water sources, reservoirs and others, which are affected by climate change, the expansion of the agricultural frontier or the unplanned human settlements."

60. Since the TIPNIS is also an indigenous territory collectively titled, the Tribunal recalls that the Bolivian State has recognized in Article 403 of its Constitution the integrality of the indigenous territories so that they may develop according to their cultural criteria and principles of harmonious coexistence with Nature:

- I. The integrality of the original indigenous rural territory is recognized, which includes the right to land, to the exclusive use and exploitation of renewable natural resources under the conditions determined by law; to the prior and informed consultation and to the participation in the benefits for the exploitation of the non-renewable natural resources that are in their territories; the ability to apply their own rules, managed by their representation structures and the definition of their development according to their cultural criteria and principles of harmonious coexistence with Nature.

61. The following rights, which Article 30 of the Constitution of Bolivia recognizes, respects, guarantees and protects for indigenous peoples are relevant to this case:

1. To exist freely.
2. To their cultural identity, religious beliefs, spiritualities, practices and customs, and to their own worldview.
4. To self-determination and territoriality.
5. That their institutions are part of the general structure of the State.
6. To the collective titling of lands and territories.
7. To the protection of their sacred places.
10. To live in a healthy environment, with proper management and use of ecosystems.
12. To an intracultural, intercultural and multilingual education throughout the education system.
13. To the universal and free health system that respects its worldview and traditional practices.



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14. To exercise their political, legal and economic systems according to their worldview.
 15. To be consulted through appropriate procedures, and in particular through its institutions, each time that legislative or administrative measures are contemplated that may affect them. Within this framework, the right to mandatory prior consultation, carried out by the State, in good faith and in a concerted manner, regarding the exploitation of non-renewable natural resources in the territory they inhabit will be respected and guaranteed.
 17. Autonomous indigenous territorial management, and the exclusive use and exploitation of renewable natural resources existing in its territory without prejudice to the rights legitimately acquired by third parties.
 18. To the participation in the organs and institutions of the State.
- 62.** Given that the TIPNIS is a National Park and has a category of protected area, the Tribunal states that Art. 385 of the Political Constitution of the Plurinational State of Bolivia that mentions that "the protected areas constitute a common good and are part of the natural and cultural heritage of the country", as well as the Law No. 1333 of the Environment in force in the Bolivian State which provides the following:
- Art. 61.- Protected areas are state heritage and of public and social interest, and should be managed according to their categories, zoning and regulation based on management plans, with the purpose of protecting and conserving their natural resources, scientific research, as well as for recreation, education and promotion of ecological tourism.*
- Art. 64.- The declaration of Protected Areas is compatible with the existence of traditional communities and indigenous peoples, considering the objectives of conservation and their management plans.*
- 63.** For its part, Supreme Decree No. 24781 of Protected Areas establishes, in Article 2, that:
- "Protected Areas are special territories, geographically defined, legally declared and subject to legislation, management and special jurisdiction for the achievement of conservation objectives of biological diversity", at the same time article 28 states that the Management Plan" is the fundamental instrument of spatial planning and ordering that defines and contributes to the management and conservation of PA resources (...) contains the guidelines and policies for the administration of the area, management modalities, assignment of uses and permitted activities".*



64. In this same General Regulation of Protected Areas, the Tribunal sees fit to indicate the following articles:

Art. 8.- I. The legal norms that declare PA's, the regulatory norms that approve their categorization, zoning, management plans and use regulations establish limitations on the rights of ownership, use and exploitation. These limitations may consist of administrative restrictions, public easements, obligations to do or not to do, and granting authorizations, permits or licences for use.

II. The competent authority will strictly comply with the legal regulations on land use planning, sustainable use and exploitation of natural resources, as well as with the special limitations established in the declaration or management plan of the PA.

Art. 11.- No authority, agency, sector or administrative authority may assume, ignore or surpass the special jurisdiction of the PAs.

Art. 31.- Zoning is understood as the ordering of the use of space based on the singularity, fragility, potential of sustainable use, value of the natural resources of the area and the uses and activities to be allowed, establishing areas subject to different restrictions and management regimes through which the objectives of the unit are expected to be achieved, closely related to the objectives and categories of the PA.

In the same article, with regard to the zone of strict integral protection within which development is prohibited, it states:

Its objective is the preservation of Nature, guaranteeing its natural evolution and its pristine state. This area is made up of fragile ecosystems or biotypes that justify the declaration of the area and that warrant absolute protection, without allowing any modification to the natural environment. For this purpose, activities for public use will not be allowed in order for the conditions to be maintained in perpetuity. In this area, only authorized and regulated scientific and scientific research activities will be allowed.

65. The D.S. No. 25158, partially modified by the 25983, determines that the National Service of Protected Areas-SERNAP is the qualified agency to support and protect the areas declared as protected, in this case the TIPNIS, with the defense of standards and policies that guarantee protection and no degradation, exploitation, affectation:

Art. 7.- (ATTRIBUTIONS). - SERNAP has the following mandates:



- a) *Propose rules and policies for the integral management of the protected areas that make up the National System of Protected Areas.*
- b) *Plan, manage and supervise the integral management of national protected areas that make up the National System of Protected Areas.*
- d) *Regulate and regulate the activities within the protected areas of the National System of Protected Areas and inspect them according to their categories, zoning and regulations based on management plans.*

66. The International Tribunal will use the laws quoted in the preceding paragraphs to evaluate the Plurinational State of Bolivia's alleged violation of the Rights of Nature in the case of the Villa Tunari-San Ignacio de Moxos road project submitted by the TIPNIS Sub-Center.

D.2. Analysis of the violation of the Rights of Nature of TIPNIS

67. The Law Decree that created the Isiboro Sécore National Park (1965) states that its integrity could be seriously endangered: *"by the construction of a path following the edge of the piedmont and by colonization"*³⁴. The Management Plan (2002) stated that *"the creation of the protected area arose as a response to colonization plans accompanied by the road opening of the Amazonian piedmont, today preserved in the TIPNIS"*³⁵. As part of the evaluation and permanent planning of the TIPNIS, SERNAP carried out a Strategic Environmental Assessment - EAE (2011) which stated that *"this road integration policy would mean the loss of biodiversity, integrated environmental functions and the loss of ecosystems and habitats appropriate for both indigenous peoples and, in general, the suffering of the Bolivian people"*³⁶. It is clear, from the information analyzed by the Tribunal, that there have been repeated and consistent warnings that the construction of the Villa Tunari-San Ignacio de Moxos highway would put the existence and integrity of the TIPNIS at serious risk.

68. In view of the warnings of serious risk posed by the construction of a road through the TIPNIS, and because of the importance of maintaining ecosystems for indigenous peoples who live there and the national society as a whole, the Bolivian government had to make an Environmental Impact Assessment of the integral project as originally suggested by SERNAP and the Competent Sector Body (see point 37). The division by sections of the aforementioned road project has allowed its construction, diverting the state obligations of environmental protection and guaranteeing the political rights of the

³⁴ Law No. 7401 of November 22, 1965

³⁵ TIPNIS Management Plan, 2002, p.42

³⁶ Strategic Environmental Assessment TIPNIS, 2011, p. 266



indigenous peoples. **The Tribunal considers the progress of works in section II through the TIPNIS to be proven**, in the south through the construction of three bridges and in the north by the modification in the extension of section I from Montegrando to Santo Domingo (see points 40 and 41), actions carried out by the Bolivian State without due evaluations, environmental licences and social consultations.

69. The documentation that has been carefully analyzed by the Tribunal, shows the relationship between the aforementioned road project and state and private interests on the use of the renewable and non-renewable natural resources of TIPNIS. Specifically, the Strategic Environmental Assessment concludes that *"the Moxos-Villa Tunari highway links to the rest of the policies (it refers to the external policies that pose a threat to the TIPNIS) because it is closely related to all the policies mentioned and their possibility of materializing, very particularly, the income of settlers and hydrocarbon companies"*³⁷.
70. The TIPNIS represents one of the few areas in Latin America with a high degree of conservation in Latin America and its capacity for regeneration is at risk due to the expansion of the monoculture of the coca leaf typical of the productive model established in the "polygon seven". Although this Tribunal understands the historical conditions that pushed the colonization process south of the TIPNIS, it nonetheless infers that the Andean colonizers, instead of expanding and diversifying their rural agricultural economy to achieve food sovereignty, have allocated their monoproduction to the supply of an economic cycle of global commercialization linked to drug trafficking³⁸ which continually demands an advance of the agricultural frontier to the detriment of Nature and Bolivians (see points 24-29) .
71. The demand for new land for cultivating coca leaf has meant that soil erosion exists, and deforestation continues (see point 27) which causes the loss of biodiversity, disruption of ecological functions performed by ecosystems of the TIPNIS, particularly the piedmonts, and negative effects on flora and fauna. Additionally, the impacts of colonization are: chemical contamination of water by liquid waste from coca processing factories and sudden changes in hydrological dynamics as a consequence of clearing processes³⁹.
72. The Villa Tunari-San Ignacio de Moxos highway will expand and deepen the colonization towards the core zone of TIPNIS, generating the conditions for the production of coca leaves on the foothill and the articulation and connection of the "polygon seven" with the areas of colonization that are intended set to the north in the area adjacent to Bosque

³⁷ EAE, p. 205

³⁸ EAE. 180. Peace, Sarela. The Indigenous March of the TIPNIS of Bolivia and its relationship with the Extractive Models of South America. 2011

³⁹ Management Plan, page 46



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de Chimanes⁴⁰. This could mean the loss of 64.5% of the forest in 18 years, which means that approximately 610,848 hectares of forest would be cleared, and this is the habitat of thousands of species of animals (including mammals, birds, amphibians, insects) and plants, and territory of Yuracarés, Tsimanes and Moxeños Trinitarios. The environmental impact will not only be in the territory of TIPNIS but also in neighboring areas such as the city of Cochabamba, which already suffers from droughts⁴¹.

73. The policy of expanding the hydrocarbon activities promoted by the Bolivian Government would have negative synergistic and cumulative effects on the TIPNIS environment, causing imminent pollution and even greater deforestation over areas that should be strictly conserved according to the zoning established in the Management Plan. This in turn, would have negative impacts on the survival prospects of the indigenous adaptive model (see point 23).
74. Under Bolivian law, protected areas such as state and national heritage to be properly conserved, must be administered according to management plans that establish protection and zoning categories (Article 61, Law No. 1333), limit what can be done and what is not within the determined geographic space (Art. 8, DS No. 24781). The Isiboro Sécure National Park is also an Indigenous Territory and is subject to the co-management of the TIPNIS Subcentral and the SERNAP - representing the indigenous peoples and the State, respectively. The TIPNIS Management Plan defines and delimits three zones within TIPNIS (see points 20-22). No modification to the natural environment is permitted within the Core Zone which has absolute protection and constitutes 39.2% of the total area of the whole, does not allow any modification to the natural environment. The Management Plan, as a regulation, must be strictly complied with art. 8, paragraph 2 of the General Regulation of Protected Areas, states that *"a road link should not be imposed that is in opposition to the categorization and zoning of the TIPNIS because it would jeopardize its conservation and viability as a National Park and indigenous life space"*.
75. Art. 11 of the aforementioned Regulation states that no state authority or authority can ignore or over-rule these established limitations. *"Any conflict between rights must be resolved in a way that does not irreversibly affect the functionality of life systems."* The road project linking the departments of Beni and Cochabamba – going right through the core of TIPNIS- goes against the categorization and zoning of the Management Plan despite the fact that it is mandatory for institutions and/or private and public organizations, and civil society in general, to comply with the Management Plan. The

⁴⁰ EAE, p. 35

⁴¹ Study of the Strategic Research Program in Bolivia (PIEB) of 2011, cited in the Report.



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Tribunal recalls that, as stated above, the Constitution of Bolivia requires the State and its institutions: to act *ex officio* in defense of Environmental Law (CPE art. 34), to play an active role as guarantor and, as established in Law No. 071, that *"any conflict between rights must be resolved in a way that the functionality of life systems is not affected irreversibly"*.

76. The Tribunal observes that the abrogated Law No.180 -which established the protection of the TIPNIS and prohibited the construction of said highway- guaranteed the conservation, sustainability and integrity of the life systems in compatibility with the Rights of Mother Earth - has been unjustifiably abrogated. On the contrary, the current Law No.969 generates the legal conditions to develop road infrastructure works within the Indigenous Territory and National Park (see points 44 and 50). The Tribunal considers that Law No.969 is a regulation of a regressive Nature for the Rights of Nature because its scope and reach is inferior in comparison to what has been achieved previously. The prohibition of regression acts as a limitation to the State that, as guarantor and protector of rights, in case of undermining the advances in the matter of recognized rights, it will be considered unconstitutional and unlawful. Bolivia has signed and ratified the American Convention of Human Rights that disallows the regression of rights previously granted.

D.3. Analysis of the violation of the indigenous peoples of the TIPNIS as defenders of Nature

77. The Universal Declaration of the Rights of Mother Earth, states that *"just as human beings have human rights, all other beings of Mother Earth also have rights that are specific to their species or kind and appropriate for their role and function within the communities in which they exist."* In this regard, the Tribunal recalls the interdependence and complementarity of all beings, especially indigenous peoples with Nature, through the conception they have of their territories.
78. The Tribunal has carefully analyzed the Report of the Commission that visited Bolivia where the impacts were brought to the attention, including the impacts which the opening of what the roads has had, and the impacts of the progress of colonization on the Yuracaré and Mojeño Trinitario peoples in the southern zone of TIPNIS and for the Chimane peoples in the north zone, adjoining with the Chimanes Forest. In this regard, the Tribunal has also analyzed the situation of the Multiethnic Indigenous Territory (see points 30 and 31) which, together with the TIPNIS, forms part of the expanded territoriality of the aforementioned peoples and recognizes the risks to the management and defense of Nature if the Bolivian State does not recognize the proprietary and land right, and indigenous autonomy in the area of the former forest concessions.



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79. The Tribunal concludes that if the Villa Tunari-San Ignacio de Moxos road continues to be built, it will undermine the environmental conditions on which the social, political, productive and cultural model of the indigenous peoples is based on (see point 19). The constant expansion -physical and demographic- of the "polygon seven" and the possible linking through the TIPNIS with other areas of similar production, will result in the gradual disappearance, assimilation or expulsion of the indigenous peoples of this area (see point 24).
80. Indigenous peoples maintain a collective way of life and diversified economic practices that are inherently sustainable with Nature as an essential element for reproducing culture. These ways of life are in conflict with the extractive production ways that see Nature as a mere commodity like those promoted by the different administrations of the Bolivian State. Faced with these developmental logics, the indigenous peoples of the TIPNIS through the development of the Management Plan and through their measures to reject the construction of the road have established their own visions of well-being.
81. The exercise of the right to free, prior and informed prior consultation and consent crystallizes one of the pillars of indigenous rights, such as participation. The Bolivian State, by not having carried out the consultation and seeking consent prior to the planning, bidding, awarding and hiring of the construction company of the Villa Tunari-San Ignacio de Moxos highway; by not having respected the indigenous institutions and procedures; by not acting in good faith, manipulating the consultation process with payments; by not adequately informing the subjects consulted about the condition of untouchability (*intangibilidad*) as a protection measure and not as an obstacle to development; has prevented the indigenous peoples of TIPNIS from fully exercising their right to free, prior and informed consultation and consent, which in turn has violated the right of indigenous peoples to self-determination and autonomy and the right to define their own forms of development (see points 45-49) .
82. Bolivia as a state party to the Convention 169 on Indigenous and Tribal Peoples of the International Labor Organization, is obliged to "consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly. In addition, the consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures. "(Art. 6 C.169)



83. In addition, Bolivia, as a state party to the American Convention on Human Rights, is submitted to the Jurisdiction of the Inter-American Court of Human Rights and therefore its jurisprudence constitutes a mandatory precedent. This high court has established the obligation to consult indigenous peoples prior to any decision that seriously affects their territory and obtain their consent, according to established standards, among others, in the *Saramaka vs. Suriname* (2007) and *Sarayaku vs. Ecuador* (2012).

E. Decision

82. Based on the foregoing, **the Tribunal concludes that the Plurinational State of Bolivia has violated the Rights of Nature and the indigenous peoples of the TIPNIS as defenders of Mother Earth, at the same time that it has failed to comply with its obligation to respect, protect and guarantee the Rights of Mother Earth as established in the national legal framework and related international regulations.**

83. This violation of the Rights of Nature, for the foregoing and in particular in paragraphs 67 to 73, includes the violation of the inherent rights of Mother Earth established in Article 2 of the Declaration, Article 7 of the Law No. 071 and article 9, paragraph 1 of Law No. 300 of Bolivia, specifically the rights: to exist and be respected, to their integrity and vital functioning and to the regeneration of their biocapacity and continuation of their cycles and vital processes free of human disruption.

84. In addition, taking into account what is referred to in points 68 and 71 of this Judgement, the Tribunal considers that the right to water as a source of life recognized in the Declaration has been violated (Article 2), the Bolivian Constitution (Article 373) and the current national regulations (Article 7 of Law No. 071 and Article 4:10 of Law No. 300).

85. The Bolivian State has violated the principles of prevention and precaution established in Art. 4 subsection 4 and 8 of Law No.300 at the same time that it has failed to comply with its duty to regulate and supervise through the competent body the integral management of the TIPNIS according to current regulations, specifically what is established in Supreme Decree No. 25983, and has not complied with its obligation to establish precautionary measures and restriction to prevent the violation of the Rights of Nature as established in the Declaration (art. 3), Law No. 071 (Article 8) and Law No.300 (Article 10). Given that the State has the obligation to guarantee that these rights are respected, it concludes that the Plurinational State of Bolivia has not complied with its duties to respect, protection and guarantee of the Rights of Nature as required by art. 3 of the Declaration, art. 8 of Law No.071 and art.10 and 27 of Law No.300.

86. The Tribunal considers that through the repeal of Law No.180 and the respective promulgation of Law No.969, the Bolivian State has failed to comply with its obligation



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to establish and effectively apply norms and laws for the defense, protection and conservation of Rights of Mother Earth as determined by the Declaration in subsection 5 of article 3 and subsections 3 and 4 of art.10 of Law No.300.

87. Likewise, as noted in paragraphs 77 to 81, the Tribunal determines that the Bolivian State has violated the collective and individual rights of the indigenous nations and peoples of the TIPNIS established in the Political Constitution of the State, the United Nations Declaration on Rights of Indigenous Peoples and Convention 169 of the International Labor Organization in complementarity, compatibility and interdependence with the Rights of Nature, as declared in art. 9 of Law No. 300.

88. Consequently, and taking into account the report of the Commission that visited the TIPNIS *in situ*, the Tribunal finds that in order to ensure the full and prompt restoration of the harm caused to TIPNIS by the violations of the rights recognized in the Declaration, and of the violation of the rights of indigenous people the following measures must be taken as soon as possible.

1. The Government of the Plurinational State of Bolivia must ensure the immediate and permanent halting of the construction of road infrastructure in the so-called section II from Isinuta to Monte Grande to the interior of the TIPNIS.

2. The Government of the Plurinational State of Bolivia must repeal Law No.969 and develop and enact a new law that guarantees the conservation and protection of the TIPNIS while respecting the rights of indigenous peoples that live there, and that prohibits the construction of a highway that traverses its core zone.

3. The Government of the Plurinational State of Bolivia must incorporate the former Bosque de Chimanes forest concessions in the Multiethnic Indigenous Territory and formally recognize the territorial rights and autonomy of the area in order to ensure that the northern zone of the TIPNIS is properly protected and managed.

4. The Government of the Plurinational State of Bolivia must take effective measures to stop the advance of colonization towards the core zone of TIPNIS.

5. The Government of the Plurinational State of Bolivia must annul oil expansion plans in the TIPNIS by derogating the articles of Supreme Decree No.0676 that refer to the oil blocks in the interior of the National Park and Indigenous Territory.

6. The Government of the Plurinational State of Bolivia must identify and punish those responsible for the violations of human rights in 2011 in Chaparina.



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7. The President of the Plurinational State of Bolivia must make a public apology for the State's past failures to protect the rights of the TIPNIS and of indigenous peoples from that area.

8. The Government of the Plurinational State of Bolivia must implement and effectively enforce norms and laws that guarantee the effective defense, protection and conservation of the Rights of Mother Earth, including by appointing an Ombudsman for Mother Earth as a matter of urgency (despite this office being established nine years ago by law No.071 an Ombudsman has not been appointed).

9. The Government of the Plurinational State of Bolivia must immediately cease taking measures to repress, discipline and control social movements, particularly of indigenous peoples, because these measures affect their autonomy and ability to organize, restrict their ability to defend Mother Earth and are contrary to the State's duty to empower human beings and institutions to defend the rights of Mother Earth and of all beings.

10. The Government of the Plurinational State of Bolivia must guarantee and protect the freedom of indigenous peoples to fulfill their fundamental role as defenders of Mother Earth, especially in the maintenance of their life and integral health cycles in the TIPNIS and in the rest of the national territory.

11. Civil society must continue to mobilise and monitor the actions of the Government and others in relation to the TIPNIS so that it can defend the Rights of Nature in the TIPNIS effectively.

12. That the Plurinational State of Bolivia urgently enact policy and legislation that ensures the implementation of its obligations under other international treaties and agreements, including the Universal Declaration of Human Rights, the Declaration on the Rights of Indigenous Peoples, the Convention on Biological Diversity, ILO 169, and others relevant to environment, biodiversity, and basic rights of communities and peoples.

89. In case of any doubt regarding the scope of the measures, the Tribunal may issue rulings, upon request of a party, to establish what should be done to comply with this judgment.

90. Notify the parties.



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The signatories below are the Judges of the Extended Rights of Nature Tribunal – Bonn⁴², who have approved and certified this judgement by signing it:

Tom Goldtooth
Executive Director of the Indigenous Environmental Network

Cormac Cullinan
Author of "Wild Law", Director of EnAct International and Wild Law Institute, President of Paris International Rights of Nature Tribunal

Vandana Shiva
Ecofeminist, Founder of Navdanya

Osprey Orielle Lake
Founder of WECAN International

Simonetta Fraudataro
Permanent People's Tribunal

Fernando Solanas
Cinematographer, Argentinian Senator

⁴² The Judges Alberto Acosta and Shannon Biggs, members of the International Rights of Nature Tribunal – Bonn 2017, excuse themselves from signing this sentence due to conflict of interest since they were part of the Commission that visited Bolivia in August 2018 who elaborated the report that was used as evidence for the development of this sentence.



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Ute Koczy

Former German Green Party Parliamentarian

Former Spokeswomen for Development Politics (Alliance 90/ The Greens)

Maristella Svampa

Main researcher of the National Council of Scientific and Technical Research, Conicet, Argentina; Professor at the Universidad Nacional de la Plata (Buenos Aires, Argentina), sociologist and writer.

Atossa Soltani

Founder and Board President of [Amazon Watch](#)

Nnimmo Bassey

Director of the ecological think tank, Health of Mother Earth Foundation, Nigeria

Ashish Kothari

Founding member of the non-governmental environmental organization Kalpavriks, India

Enrique Leff

Researcher/professor of the Social Research Institute, Universidad Nacional Autónoma de Mexico, Mexico.



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Permanent People's Tribunal

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Casey Camp Horinek
Council Woman Ponca Nation

Antonio Elizalde Hevia
Presidente de la Fundación Sociedades Sustentables (Chile)

Ruth Nyambura
African Ecofeminist Collective

Horacio Machado Aráoz
CONICET Researcher and Coordinator of the Research Team of the Southern Political Ecology (CITCA-CONICET-UNCA)

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Blanca Chancoso

Indigeneous leader, President of Ecuarunari

Yaku Pérez

General Coordinator CAOI, Prefect of Azuay

Mario Melo

Director of the Center for Human Rights of the Catholic University of Ecuador, Advisor to the Pachamama Foundation

Confirms the judgement and the signatures,

Natalia Greene

Secretary

International Rights of Nature Tribunal