



INTERNATIONAL
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INTERNATIONAL TRIBUNAL FOR THE RIGHTS OF NATURE

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

FINAL JUDGEMENT

In the case of the Isiboro Sécure National Park and Indigenous Territory (hereafter 'TIPNIS'), the International Rights of Nature Tribunal, (hereafter '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 (hereafter the Declaration), in order to promote the harmonious coexistence of humans and the other of beings in 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 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 legal subject, thus overcoming the anthropocentric paradigm of the 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, including Law No. 71 on the Rights of Mother Earth, enacted 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, may serve as a reference.
4. Likewise, regarding allegations of human rights violations, this Tribunal deems it appropriate to speak out on the basis of the close relationship that indigenous peoples



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have with Nature, as its 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 International Covenants on Civil and Political Rights and of Economic; Social and Cultural Rights of 1966; the American Convention on 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 International Labor Organization Convention 169 of 1989 and the United Nations Declaration on the Rights of Indigenous Peoples of 2007.

5. The Great Jurisprudence¹ will be taken as a reference. This is an ethical framework that inspires the Declaration, which postulates that we are all part of the universe, and thus must respect one other, and consequently, recognize and accept the intrinsic nature of Mother Earth. It is therefore necessary to protect all species living alongside the human species, which implies that Nature cannot continue to be objectified and considered as mere merchandise to be taken advantage of, exploited, degraded, minimized and even silenced.

6. An additional reference is "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 hence promote harmonious coexistence within the Earth Community.² Wild Law enables 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 Law typically focuses on promoting behaviors and actions that maintain healthy relationships within the Earth Community rather than on prohibiting or authorizing specific acts. From this notion arises 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 background of the Case

7. On November 7th and 8th 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: TIPNIS Women's Organization President Marquesa Teco; TIPNIS Subcentral President Fabián Gil, and, of other experts. The purpose of these appearances was to demonstrate the implications of the road project Villa Tunari -

¹ Terms used and developed by the author Cormac Cullinan , in his book, *Wild Law: A Manifesto for Earth Justice* (2002).

² Cormac Cullinan , *Wild Law: A Manifesto for Earth Justice*, p.28-69.



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San Ignacio de Moxos road project that intends to cross the heart of the TIPNIS, and particularly to highlight the damages it would cause to their communities and to forests, rivers, and animals. In addition, the alleged violation of the rights of the indigenous peoples of Mojeño Trinario, Chimane and Yuracaré indigenous peoples in 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 was repressed by State police forces in 2011. It was also noted that, although Law No. 180 of October 24th, 2011, protected TIPNIS from development, this protection was cancelled by Law No. 969 enacted on August 13th, 2017, cancels the protection of TIPNIS 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's 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 comprising three experts, Alberto Acosta (Ecuador), Shannon Biggs (USA), and Enrique Viale (Argentina), as well as 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 served as judges of the Tribunal in Bonn, however, because 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 with the addition of 26 judges who had participated in previous Tribunal hearings or were called on to participate as judges in this sentence given their ethical characteristics and carefully analyzed personal and professional trajectories.
9. The Commission visited the community of Trinidacito in the TIPNIS, where around 200 indigenous people of the different communities of the Territory met, along with 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, attempted to meet with indigenous and intercultural settlers of the area



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south of TIPNIS known as Polygon Seven. However, upon entering the town of Isinuta they encountered hostile conditions that prevented them from 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 that describes the situation of the TIPNIS, the status of the road project Villa Tunari-San Ignacio de Moxos, road projects, 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, and 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 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: the rights 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 its natural cycles and vital processes free from human disruptions; to maintain its 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. On Isiboro Sécore National Park and 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 vertebrates 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 Protected Areas Service (SERNAP), 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. Regarding plants, there are around 2,500 species. TIPNIS is home to different types of forests and ecosystems - sub-Andean, foothills and flooded grasslands - that generate important environmental services⁴. The TIPNIS is the region of Bolivia with the greatest amount of rainfall

³ TIPNIS Management Plan, 2002, p. 215

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



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precipitation that exceeds 3,000 mm per year. The ecological communities of TIPNIS are among the most important sources of oxygen and water in Bolivia.

15. TIPNIS is also one of the largest pristine forest complexes in the country, and is of vital importance for regional and national water management in Bolivia. The concentration of bodies of water in this area means that its conservation is of fundamental importance and because it is a zone of very high fragility, a high level of protection is necessary⁵.
16. Isiboro Sécore National Park, with an area of 1'225,347 hectares, was created by Executive Order No. 7401 by the government of Bolivia on November 22nd, 1965.
17. According to the documentation reviewed by the Tribunal, the indigenous peoples 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 24th, 1990, as a result of the historic "March for the Territory and for Dignity" by indigenous peoples from the Amazon to the highland city of La Paz, the TIPNIS also acquired the status of an Indigenous Territory through the enactment of Supreme Decree No. 22610. In 2009, the national government recognized as the territory of the indigenous peoples of TIPNIS, a total of 1,091,656 hectares as collective property⁷.
19. The Tribunal understands that the Chimane, Mojeño Trinitario and Yuracaré peoples of 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 TIPNIS.⁸
20. Based on the information considered by the Tribunal, TIPNIS, due to its dual protection status, it is part of a strategy of co-management between organic representatives of indigenous peoples and SERNAP as it is established in Article 385.II of the Political Constitution of the Plurinational State of Bolivia.

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.



21. The Management Plan -and the respective Operationalization Plan- developed by the TIPNIS Subcentral⁹ and SERNAP, which is responsible for the conservation and co-management of TIPNIS, 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 TIPNIS; 2) the Zone of Traditional Management Zone, which is intended to preserve ecosystems with minimal intervention associated with the traditional indigenous productive systems of hunting, fishing and gathering, and; 3) the Zone of Natural Resources Use, where communities can use and take advantage of resources for commercial purposes through specific Management Plans that ensure sustainability.

22. The Core Zone of TIPNIS contains species of flora and fauna that are in danger of extinction, endemic or with different degrees of vulnerability (e.g. otter and marsh deer). Its conservation is essential because it contains the springs of the main basins and is the guarantor of the continuity of the hydrological system. 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 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 its 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 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 whose economy is based on the production of coca leaf. According to official sources¹⁰ and testimonies of the indigenous peoples of TIPNIS¹¹, the presence of the colonizers has created conflict from the beginning due to the destruction of biodiversity caused by coca monocultures and yearly 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.



25. Given the information analyzed, the colonization process was facilitated in the 1970s by the opening of a road for oil prospecting¹² and it grew in the 1980s with the mining crisis in Bolivia and the neoliberal relocation at the time, which occurred 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 it now occupies approximately 123,000 hectares. The 2001 Census recorded 7,578 migrant settlers and 741 indigenous people in the area. Meanwhile, the 2012 Census recorded a total of 13,040 settler migrants, demonstrating changing demographics as the settler population increases in the face of the decrease in the indigenous population which registered only 385 people.¹⁴
26. 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 yearly expansion of the agricultural frontier causes 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 Polygon Seven being eight times higher than in the rest of TIPNIS, or twice that of the entire Bolivian Amazon¹⁵.
28. According to a report by the United Nations Office on Drugs and Crime (UNODC), between 2015 and 2016, there was a 43% increase in coca plantations in 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 the Environment and Water¹⁶, and of SERNAP¹⁷, among others¹⁸, which reveals links between the coca leaf production in Polygon Seven and drug trafficking activities.

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.



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 Chimanes Forest, shows a worrying pressure by illegal loggers and settler settlements.
31. The Tribunal considers 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). An "area of former forest concessions" exists that according to the aforementioned decree must be recognized as property of the indigenous peoples of the TIM.

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

32. The road project that aims to connect the cities of Cochabamba and Trinidad - crossing the Core Zone of the Isiboro Sécure National Park and Indigenous Territory - dates from 1985²⁰. In 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 Zone of 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>

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.



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35. In 2008, the Base Contracting Document (DBC, for its initials in Spanish)²⁴ that accompanied International Public Bid 001/2008 was signed, based on which the contract for the construction of the 306 km-highway and the loan contract for its financing were awarded.
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 TIPNIS; and,
Section III of 82 km from Monte Grande to San Ignacio de Moxos.
37. The aforementioned division was approved by 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 Reports 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, which crosses TIPNIS, does not have an Environmental Report 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 from Villa Tunari to Isinuta in the extreme south outside of TIPNIS. The road was made through direct contracting 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 Report - consists of 82 km outside the Isiboro Sécure National Park and Indigenous Territory. In 2015, the Bolivian government announced the modification of this road section, increasing its size by 48.3 km to Santo Domingo to the interior of TIPNIS²⁸, without conducting new studies or granting corresponding licences.

²⁴ [HTTPS://TIPNISBOLIVIAORG.FILES.WORDPRESS.COM/2018/10/DBC-RUTA-F24-ABC-MARZO-2008.DOC](https://tipnisboliviaorg.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 / DGTFL / CBP No. 0173/2009 of June 2, 2009

²⁷ Report Commission in Situ Case of TIPNIS

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



41. According to the information presented to the Tribunal for consideration, between 2017 and 2018, the Bolivian government constructed three bridges inside TIPNIS in Section II: Isiboro Bridge, Ibuelo Bridge and Sazama Bridge, all of them in Polygon Seven ²⁹.

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

42. According to the information considered by the Tribunal, the indigenous peoples of TIPNIS have rejected the Villa Tunari-San Ignacio de Moxos road project from the beginning.
43. On August 15th, 2011, around 1,000 indigenous people from the lowlands of Bolivia left for La Paz from the city of Trinidad in the 'Eighth March of the Indigenous Peoples' in defense of TIPNIS. On September 25th, 2011, this peaceful mobilization was violently repressed by Bolivian police in the town of Chaparina, leaving scores of wounded; men, women and children were detained without guarantees of due process and several other human rights violations were confirmed 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 TIPNIS". Additionally, the protection of the National Park and Indigenous Territory was declared, making it possible to adopt any protection measure to reverse, annul or dissolve any act that violates the rights of TIPNIS.
45. On February 10th, 2012, the Bolivian government approved Law No. 222 entitled 'Consultation of the indigenous peoples of TIPNIS' with the aim of "defining whether or not development should be prohibited within the Isiboro Sécure National Park and Indigenous Territory, if it should be untouchable (*intangibile*) or not, and to enable the development of the activities of the indigenous peoples of Mojeño-Trinitario, Chimane and Yuracaré, as well as the construction of the Villa Tunari - San Ignacio de Moxos Road".
46. On April 29th, 2012, the indigenous peoples began the 'Ninth March' in opposition to Law No. 222 and in defense of Law No. 180. The marchers arrived in La Paz after 61 days of walking, but they were not received by the President of the Plurinational State of Bolivia.

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.



47. According to the information considered by the Tribunal, the Bolivian government developed a consultation process - despite the express rejection of indigenous peoples of TIPNIS - between July 27th and December 7th of 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 International 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 Villa Tunari-San Ignacio de Moxos road project; the report also notes numerous irregularities and violations of national and international principles and standards regarding the right to free, prior, informed and good faith consultation³².
50. The Bolivian government waited several years to implement the results of this highly questionable consultation process. After changes in leadership in TIPNIS, on August 13th, 2017, after a hasty parliamentary approval process, the government enacted Law No. 969, provides for the repeal of Law No. 180, "... in the framework of the results of the free, prior and informed consultation (...)". The new law, in force on the date of this Judgement, eliminates the protection status of TIPNIS and creates the legal conditions to develop road infrastructure projects within the National Park and Indigenous Territory.

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 from 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

³¹ Observation and follow-up report on the prior, free and informed consultation of the indigenous peoples of the Isiboro Sécure National Park and Indigenous Territory. 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 Isiboro Sécure National Park and Indigenous Territory. Available at <http://www.tipnisesvida.net/informeFIDH.pdf>



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that are on the same level in the hierarchy of rights as other fundamental rights; and, (ii) because the Rights of Nature are fundamental rights, they may be protected by the use of interdictions (injunctions) against arbitrary decisions that seek to limit these rights.

- 52.** For the Tribunal, TIPNIS is part of our Mother Earth, and therefore, it has the right to life, to be respected, to its regeneration, to continue its vital cycles and processes free from 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 from 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 deems it necessary to note the following obligations, which according to said regulations are a responsibility of individuals, States, and public and private institutions:
1. To act in accordance with 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 damage caused by human violations of the inherent rights recognized in the Declaration is rectified and that those responsible are held accountable for restoring the integrity and health of Mother Earth;
 7. To empower human beings and institutions to defend the Rights of Mother Earth and all of 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 the disruption of ecological cycles;
 9. To promote and support practices of respect for Mother Earth and all of the beings comprising 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.** Likewise, the Tribunal considers the Rights of Nature recognized in the Constitution of Ecuador, which states:



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Art. 71. Nature or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.

Every person, people, community or nationality, will be able to demand the recognitions of rights for nature before the public organisms. The application and interpretation of these rights will follow the related principles established in the Constitution.

The State will motivate natural and juridical persons as well as collectives to protect nature; it will promote respect towards all the elements that form an ecosystem.

Art. 72. Nature has the right to restoration. This integral restoration is independent of the obligation on natural and juridical persons or the State to indemnify the people and the collectives that depend on the natural systems.

In the cases of severe or permanent environmental impact, including the ones caused by the exploitation on non-renewable natural resources, the State will establish the most efficient mechanisms for the restoration, and will adopt the adequate measures to eliminate or mitigate the harmful environmental consequences.

Art. 73. The State will apply precaution and restriction measures in all the activities that can lead to the extinction of species, the destruction of the ecosystems or the permanent alteration of the natural cycles.

The introduction of organisms and organic and inorganic material that can alter in a definitive way the national genetic patrimony is prohibited.

Art. 74. The persons, people, communities and nationalities will have the right to benefit from the environment and form natural wealth that will allow wellbeing.

The environmental services cannot be appropriated; their production, provision, use and exploitation, will be regulated by the State.



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55. Bolivia has been a proponent of the recognition of Mother Earth as a legal subject, and under the current national legislation the Tribunal sees fit to highlight Law No. 071 on 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 for Mother Earth:

To life: The right to maintain the integrity of living systems and natural processes that sustain them, and capacities and conditions for regeneration.

To the diversity of life: It is the right to preservation of differentiation and variety of beings that make up Mother Earth, without being genetically altered or structurally modified in an artificial way, so that their existence, functioning or future potential would be threatened.

To water: The right to preserve the functionality of the water cycle, its existence in the quantity and quality needed to sustain living systems, and its protection from pollution for the reproduction of the life of Mother Earth and all its components.

To clean air: The right to preserve the quality and composition of air for sustaining living systems and its protection from pollution, for the reproduction of the life of Mother Earth and all its components.

To equilibrium: The right to maintenance or restoration of the interrelationship, interdependence, complementarity and functionality of the components of Mother Earth in a balanced way for the continuation of their cycles and reproduction of their vital processes.

To restoration: The right to timely and effective restoration of living systems affected by human activities directly or indirectly.

To pollution-free living: The right to the preservation of any of Mother Earth's components from contamination, as well as toxic and radioactive waste generated by human activities.

56. On October 15th, 2012, Bolivia issued Law No. 300, the Framework Law of Mother Earth and Integral Development for Living Well, which establishes the respect for and application of these rights over any other right. It is important to emphasize that no other can come before the rights of Mother Nature, for it is a collective right of public interest that is prioritized over others, having the character of a human right and guaranteeing life and respect for it:

³³ Law No. 071: Art. 3-4



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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:

- a) Rights of Mother Earth as a collective subject of public interest.
- b) Collective and individual rights of peasant first nations 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 solidarity-based 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 the society and people.

57. Likewise, Article 8 of Law No. 071 states that:

"The obligations of the State are to develop public policies of prevention, protection, and precaution in order to prevent human activities causing the extinction of living beings, the alteration of the cycles and processes that ensure life, or the destruction of livelihoods, including cultural systems that are part of Mother Earth; develop forms of production and patterns of consumption balanced with Mother Earth to live well; defend Mother Earth in the plurinational and international arena and promote the recognition and defense of its rights." In turn, Article 10 of Law No. 300 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 essential for the life of the peoples, establishes in Article 33: "the right to live in a healthy, protected and balanced environment" and states that "the exercise of this right must allow individuals and communities of present and future generations, as well as other living beings, to develop normally and permanently." Meanwhile, Article 34 states: "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 before attacks against the environment".



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59. The Tribunal wishes to emphasize that, as established in Article 373 of the Constitution of the Plurinational State of Bolivia, "*water is a fundamental right for life*" in accordance with the provisions of national laws, and *the right to water is essential for the maintenance and functionality of life systems* (Art. 7.3 Law No. 071 and Art. 27 Law No. 300), thus, in accordance with its constitutional duties, the State "*will prevent actions at the sources and intermediate zones of rivers that cause damage to ecosystems or reduce flows*" (Art. 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 basins, water sources, reservoirs and others, which are affected by climate change, the expansion of the agricultural frontier or unplanned human settlements.*"
60. Since TIPNIS is also an indigenous territory, the Tribunal recalls that the Bolivian State has recognized in Article 403 of its Constitution the integrity of the indigenous territories so that they may develop according to their cultural criteria and principles of harmonious coexistence with Nature:
- I. The integrity of rural native indigenous territory is recognized, which includes the right to land, to the use and exclusive exploitation of the renewable natural resources under conditions determined by law, to prior and informed consultation, to participation in the benefits of the exploitation of the non-renewable natural resources that are found in their territory, to the authority to apply their own norms, administered by their structures of representation, and to define their development pursuant to their own 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.



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10. To live in a healthy environment, with proper management and use of ecosystems.
 12. To an intracultural, intercultural and multilingual education throughout the educational system.
 13. To the universal and free health system that respects their worldview and traditional practices.
 14. To exercise their political, legal and economic systems according to their worldview.
 15. To be consulted through appropriate procedures, and in particular through their 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 their 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 status of a 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”, and points out Law No. 1333 on the Environment in force in Bolivian which provides the following:
- Art. 61.- Protected areas are State patrimony and of public and social interest, and shall 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 the promotion of ecological tourism.*
- Art. 64.- The declaration of Protected Areas is compatible with the existence of traditional communities and indigenous peoples, considering conservation objectives and their management plans.*
- 63.** For its part, Supreme Decree No. 24781 on Protected Areas establishes, in Article 2, that:



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"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". Meanwhile, 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 on Protected Areas, the Tribunal sees fit to highlight 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 for 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.*

The same article, with regard to the zone of strict integral protection within which development is prohibited, 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. Supreme Decree No. 25158, partially modified by No. 25983, determines that SERNAP is the agency qualified to support and protect the areas declared as protected, in this case TIPNIS, with the defense of standards and policies that guarantee protection and lack of degradation, exploitation, or 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) Set standards for and regulate 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 TIPNIS Subcentral.

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

67. The Executive Order that created the Isiboro Sécure National Park (1965) states that its integrity could be seriously endangered "by the construction of a path following the edge of the foothills 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 opening with a road of the Amazonian foothills, today preserved in TIPNIS"³⁵. As part of the evaluation and permanent planning of TIPNIS, SERNAP carried out a Strategic Environmental Assessment (2011) which stated that "this road policy would mean the loss of biodiversity, integrated environmental functions and the loss of ecosystems and appropriate habitats for both indigenous peoples and, in general, the suffering of the Bolivian people"³⁶. Based on the information analyzed by the Tribunal, it is clear 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 TIPNIS at serious risk.

³⁴ Law No. 7401 of November 22, 1965

³⁵ TIPNIS Management Plan, 2002, p.42

³⁶ Strategic Environmental Assessment TIPNIS, 2011, p. 266



68. In view of the warnings regarding the serious risks posed by the construction of a road through TIPNIS, and because of the importance of maintaining ecosystems for the indigenous peoples who live there and the national society as a whole, the Bolivian government should have made an Environmental Impact Assessment of the complete project as originally suggested by SERNAP and the Competent Sector Body (see paragraph 37). The division road project into sections has allowed its construction, diverting State obligations with regard to environmental protection and guaranteeing the political rights of the indigenous peoples. **The Tribunal considers the progress on construction in Section II through 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 paragraphs 40 and 41), actions carried out by the Bolivian State without due evaluations, environmental licences and social consultations.
69. The documentation carefully analyzed by the Tribunal demonstrates the relationship between the aforementioned road project and State and private interests regarding the use of the renewable and non-renewable natural resources of TIPNIS. Specifically, the Strategic Environmental Assessment concludes that *"the Moxos-Villa Tunari highway is connected to the rest of the policies [this refers to the external policies that pose a threat to TIPNIS] because it is closely related to all of the policies mentioned and their possibility of generating, very specifically, income for settlers and hydrocarbon companies"*³⁷.
70. TIPNIS represents one of few areas in Latin America with a high degree of conservation, and its capacity for regeneration is at risk due to the expansion of coca monoculture typical of the productive model established in Polygon Seven. Although this Tribunal understands the historical conditions that pushed the colonization process to the south of TIPNIS, it nonetheless infers that the Andean colonizers, instead of expanding and diversifying their rural agricultural economy to achieve food sovereignty, have tailored their monocropping to the supply of an economic cycle of global trade linked to drug trafficking³⁸, which continually demands the advance of the agricultural frontier to the detriment of Nature and Bolivians (see paragraphs 24-29).
71. The demand for new land for coca leaf cultivation has meant that soil erosion exists and deforestation continues (see paragraph 27), which causes the loss of biodiversity, disruption of the ecological functions performed by ecosystems of TIPNIS, particularly the foothills, and has negative effects on flora and fauna. Additionally, the impacts of colonization are: chemical contamination of water by liquid waste from coca processing

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



factories and sudden changes in hydrological dynamics as a consequence of land clearing processes³⁹.

72. The Villa Tunari-San Ignacio de Moxos highway will expand and deepen colonization towards the Core Zone of TIPNIS, generating the conditions for coca leaf production in the foothills and the articulation and connection of Polygon Seven with the areas of intended colonization located to the north in the area adjacent to Chimanes Forest⁴⁰. This could lead to the loss of 64.5% of the forest in 18 years, which means that approximately 610,848 hectares of forest would be cleared, including the habitat of thousands of species of plants and animals (mammals, birds, amphibians, insects), and territory of Yuracarés, Tsimanes and Moxeños Trinitarios. The environmental impact will occur not only 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 environment of TIPNIS, 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 prospect for survival of the indigenous adaptive model (see paragraph 23).
74. Under Bolivian law, areas protected as State and national patrimony to be properly conserved must be administered according to management plans that establish protection and zoning categories (Article 61, Law No. 1333) and limit what can and cannot be done within the determined geographic space (Art. 8, DS No. 24781). Isiboro Sécore National Park is also an Indigenous Territory and is subject to the co-management of TIPNIS Subcentral and SERNAP - representing the indigenous peoples and the State, respectively. The TIPNIS Management Plan defines and delimits three zones within TIPNIS (see paragraphs 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, prohibiting any modification to the natural environment. The Management Plan, as a regulation of strict compliance under Article 8, Paragraph 2 of the General Regulation on Protected Areas, states that *"a road connection should not be imposed that is in opposition to the categorization and zoning of TIPNIS because it would jeopardize its conservation and viability as a National Park and space for indigenous life"*.

³⁹ Management Plan, page 46

⁴⁰ EAE, p. 35

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



75. Art. 11 of the General Regulation on Protected Areas states that no State authority or actor 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 compliance with the Management Plan is mandatory for institutions and/or private and public organizations, and civil society in general. The 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 (Art. 34, CPE), to play an active role as guarantor and, as established in Law No. 071, that *"any conflict between rights must be resolved in such a way that the functionality of life systems is not affected irreversibly"*.
76. The Tribunal observes that abrogated Law No. 180 - which established the protection of TIPNIS and prohibited the construction of said highway, guaranteeing the conservation, sustainability and integrity of life systems in accordance 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 National Park and Indigenous Territory (see paragraphs 44 and 50). The Tribunal considers Law No. 969 to be a regressive regulation 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 on the State that, as the guarantor and protector of rights, in cases of undermining advances on recognized rights, shall consider these unconstitutional and unlawful. Bolivia has signed and ratified the American Convention on Human Rights, which bars the regression of rights previously granted.

D.3. Analysis of the violation of the indigenous peoples of 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 of indigenous peoples and Nature, through their own conception of their territories.
78. The Tribunal has carefully analyzed the report of the Commission that visited Bolivia detailing the impacts of the opening of roads and progress on colonization on the Yuracaré and Mojeño Trinitario peoples in the southern zone of TIPNIS and for the Chimane peoples in the northern zone bordering the Chimanes Forest. In this regard, the Tribunal has also analyzed the situation of the Multiethnic Indigenous Territory (see paragraphs 30 and 31) which, together with TIPNIS, forms part of the expanded territoriality of the aforementioned peoples, and recognizes the risks to the management



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and defense of Nature if the Bolivian State does not recognize the right to property, possession of land and indigenous autonomy in the area of the former forest concessions.

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 (see paragraph 19). The constant expansion - physical and demographic - of Polygon Seven and the possible connection through TIPNIS with other areas of similar production, will result in the gradual disappearance, assimilation or expulsion of the indigenous peoples of this area (see paragraph 24).
80. Indigenous peoples maintain a collective way of life and diversified economic practices that are inherently sustainable with Nature as an essential element of their cultural reproduction. These ways of life are in conflict with methods of extractive production that see Nature as a mere commodity, such as those promoted by the different administrations of the Bolivian State. Faced with these developmentalist logics, the indigenous peoples of 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 living well.
81. The exercise of the right to free, prior and informed consultation and consent is among the pillars of indigenous rights, as is participation. The Bolivian State, by having failed to carry out consultation and seek 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 indigenous institutions and procedures; by not acting in good faith, manipulating the consultation process through payments; by not adequately informing the subjects consulted about the condition of intangibility 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 their right to define their own forms of development (see paragraphs 45-49).
82. Bolivia, as a state party to the ILO 169 on Indigenous and Tribal Peoples, 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... 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 subject 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 the standards established in *Saramaka vs. Suriname* (2007) and *Sarayaku vs. Ecuador* (2012), among others.

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 TIPNIS as defenders of Mother Earth and 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 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 from human disruption.

84. In addition, taking into account paragraphs 68 and 71 of this Judgement, the Tribunal considers that the right to water as a source of life has been violated as recognized in the Declaration (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 Article 4 subsection 4 and 8 of Law No. 300 and it has failed to comply with its duty to regulate and supervise through the competent body the integral management of 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 (Art. 8) and Law No. 300 (Art. 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, protect and guarantee the Rights of Nature as required by Article 3 of the Declaration, Article 8 of Law No. 071 and Articles 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 Article 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 TIPNIS established in the Political Constitution of the State, the United Nations Declaration on Rights of Indigenous Peoples and ILO 169 in complementarity, compatibility and interdependence with the Rights of Nature, as declared in Article 9 of Law No. 300.

88. Consequently, and taking into account the report of the Commission that visited 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 violations of the rights of indigenous peoples, the following measures must be taken immediately:

1. The Government of the Plurinational State of Bolivia must ensure the immediate and permanent halting of the construction of road infrastructure in Section II from Isinuta to Monte Grande in the interior of 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 TIPNIS while respecting the rights of the 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 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 TIPNIS is properly protected and managed.

4. The Government of the Plurinational State of Bolivia must take effective measures to halt the advance of colonization towards the Core Zone of TIPNIS.

5. The Government of the Plurinational State of Bolivia must annul plans for oil expansion in 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 issue a public apology for the State's past failures to protect the rights of 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 (an Ombudsman has not yet been appointed despite the fact that this office was established nine years ago under law No. 071).

9. The Government of the Plurinational State of Bolivia must immediately cease taking measures to repress, discipline and control social movements, particularly those 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, particularly in the maintenance of their life cycles and integral health in 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 TIPNIS so that it can defend the Rights of Nature in TIPNIS effectively.

12. The Plurinational State of Bolivia must 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 the 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 judgement 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 judgement.



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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

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Casey Camp Horinek
Council Woman Ponca Nation

Antonio Elizalde Hevia
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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