

Indigenous peoples and environment



COMMUNITIES AND INSTITUTIONS THAT ADHERE TO THIS REPORT

**Ayllu Fundo Rustico
Acre Antequera**

**Capitanía Comunal
Tacobo Mora-CTM**

COMUNIDAD CAIGUA
Área de influencia directa del
Parque Nacional Aguara Güe

CDVT
Comite de Defensa
Valle de Tucabaca

**Comite de Gestion
Reserva de Vida Silvestre
Tucabaca - CGAP/UCPNT**

**JACHA MARKA
TAPACARI CONDOR
APACHETA**



**SUB CENTRAL CABILDOS
INDIGENALES**
región Isiboro Sécura TIPNIS

Nación
QHARA QHARA

Sub Central
TARIQUÍA



ASAMBLEA PERMANENTE
DE DERECHOS HUMANOS
BOLIVIA



ASAMBLEA PERMANENTE
DE DERECHOS HUMANOS
LA PAZ



**Colectivo
CONSUMIDORAS
CONSCIENTES**

**COLECTIVO
No a la Tala**
de Árboles en Cochabamba



ELA
Escuela de Líderes
Ambientales



**PLATAFORMA
POR EL MEDIO AMBIENTE
Y LA VIDA**



**WARMIS EN
RESISTENCIA**
Espacio de Mujeres



VCDH
Veeduría Ciudadana de
Derechos Humanos

**Consorcio
TICCA**



CCNAGUA
Consejo Continental Guarani



**RED ECLESIAL
PANAMAZÓNICA MOJOS**

REPORT PREPARED BY:



**ALIANZA POR LOS
DERECHOS HUMANOS
Y EL MEDIO AMBIENTE**

Balance of the implementation of the second cycle recommendations

Bolivia has made significant progress in constitutional recognition of the right to a healthy environment and respect for the rights of indigenous peoples. It has ratified, through Law No. 1257 (1991), Convention 169 of the International Labor Organization (ILO, 1989) on prior consultation of indigenous, tribal and Afro-descendant peoples in all countries. The United Nations Declaration on the Rights of Indigenous Peoples took the rank of Law (No. 3760, 2007). And, recently, the Legislative Assembly ratified through Law No. 1182 (June 3, 2019) the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean, called the Agreement of Escazú.

However, at present, in 28 million hectares of the country, hydrocarbon exploration and exploitation operations can be carried out; this area represents around 25% of the territory. Eleven of the twelve ecoregions in the country are committed to oil activities. Likewise, there are mining rights forced on 1,848 rivers and 39 bodies of water and micro-basins. Once these new mining rights are put into operation, they will impact 64.5% of the high plateau and 50.6% of the Amazon.

The hydrocarbon border affects 37.64% of the titled indigenous territories. In the northern Amazon region, 13 of 15 titled territories have superimposed hydrocarbon areas; in the Chapare-Moxos region 5 of 6 territories are in the same situation and

in the Chaco region all indigenous territories; with this, there are 27 indigenous territories compromised. Because of this, indigenous peoples are generally those who suffer the greatest impacts of oil pollution.

The magnitude of these activities and the various impacts they cause in the enjoyment of human rights does not match the recommendations that Bolivia has received in previous evaluation cycles. Of the 315 recommendations of both cycles, only 4 refer to the environment, 3 regarding water and 3 prior consultation with indigenous peoples.

Unfortunately, these few recommendations Bolivia received have not been properly implemented. The norms that promote highly polluting activities and that directly affect indigenous peoples are not well formulated, do not apply effectively and do not take into account the concern of indigenous peoples regarding the effects they may suffer from pollution. This is the case of the Mining Law (No. 535 of 2014) or the Supreme Decrees that regulate prior consultation in oil activities (No. 2298 of 2014). In addition, the Bolivian State authorized oil activities within protected areas (Supreme Decree No. 2366 of 2015) that are simultaneously the habitat of indigenous peoples, some of them in voluntary isolation. The aforementioned legislation distorts the principle of legality, violating the rights of indigenous peoples.

Evidence provided on the environment and rights of indigenous peoples

- Extractive activities are severely degrading the environment due to the lack of any action by the authorities. The constitutional provisions regarding the protection and conservation of the environment are not complied with by the regulations that promote extractive activities such as the Mining Law 535 (2014) and the D.S. 2366 (2015), that allows hydrocarbon activities to be carried out within the protected areas.
- There are very alarming cases of contamination of bodies of water in the Lake Poopó basin on which depend the Uru people, declared highly vulnerable after drought events in 2015.
- Authorizations to carry out hydrocarbon exploitation activities in protected areas have distorted the objectives of creating these areas, putting them at serious risk of environmental degradation. 11 of the 22 national protected areas already have exploitation rights in areas that exceed 30 and reach even up to 90% of the area of these areas. The indigenous peoples that live there depend for their survival on the good state of conservation, a situation that is affected by the mentioned rules.
- We have documented 8 emblematic cases of violation of the right to prior consultation in hydrocarbon, mining and infrastructure construction activities. These cases show different patterns of violation of this right:
 - The State argues that these activities have rights prior to those of indigenous people, as is the case with pre-constituted mining rights.
 - In other cases, they are denied the right to consultation, because there happen to be ownership conflicts over that land.
 - Other violations have to do with the breach of the agreements reached, as in the case of hydrocarbons.
 - The absence of information on environmental impacts aggravates the defenseless situation.
 - There are no judicial procedures that victims can activate to reduce power asymmetry.
 - Finally, the absence of prior consultation is expressed by the projects imposition, the increase of conflicts and the abuse of power of authorities and companies.
 - There are worrying cases of violence and impunity such as those registered in Takovo Mora and the TIPNIS.
- Bolivia has contracted international obligations regarding guaranteeing and protecting the rights of indigenous peoples in voluntary isolation and initial contact and incorporating the constitution of these rights. However, Law 450 is imprecise, vague and has not been properly implemented. The institution responsible for the aforementioned law, DIGEPIO, has not been constituted to date.
- The State through the promulgation of measures to promote extractive activities on territories in which indigenous peoples live, is putting their lives at risk.
- In the Bloque Nueva Esperanza there have been unwanted initial contact events that were not due or diligently taken care of by the authorities, who continue to deny the facts.
- The Bolivian State fails to comply with its international obligations of respect, guarantee and protection of rights of indigenous peoples in voluntary isolation.

RECOMMENDATIONS TO THE BOLIVIAN STATE

REGARDING THE RIGHT TO THE ENVIRONMENT

We ask you to convey the following questions:

- What specific measures have been taken to reduce the discharge of polluting mining wastes that mining activities carry out in the Lake Poopó basin?
- What specific plans and resources are available to assist people and communities severely affected by mining pollution in this basin?
- What measures have been implemented to protect the nature of environmental conservation areas of protected areas?

Specific recommendations:

- Implementing the Escazú agreement on access to information, participation in environmental decisions and environmental justice.
- Derogation of Law No. 535 and Supreme Decrees No. 2366 and No. 2992, as they are contrary to the exercise of the right to a healthy environment.
- Promote studies that determine the effect of mining pollution in the Lake Poopó basin on the health of exposed people. And in relation to this, establish an adequate public health program.

IN RELATION TO THE RIGHT TO PRIOR CONSULTATION TO INDIGENOUS PEOPLES

Specific recommendations:

- Adjust the mining and hydrocarbon sector legal framework according to ILO Convention 169. Reform the Mining Law and D.S. 2298 specifically recognizing the Right to Access to Information in the context of extractive activities.
- Promote actions of prevention and participation of indigenous communities in the National Human Rights Action Plan,

considering their special vulnerability to suffer systematic violations of their rights.

- Abrogate Law 979 that allows the construction of a road through the Indigenous Territory and Isiboro Secure National Park - TIPNIS.

IN RELATION TO THE RIGHT TO LIFE OF INDIGENOUS PEOPLES IN VOLUNTARY ISOLATION

We ask you to convey the following questions:

- What measures have been implemented for the regulation of law 450 and the establishment of the General Directorate for the Protection of Indigenous and Nations - DIGEPIO?
- What plans and resources protect the territories and life of indigenous peoples in voluntary isolation and not contacted?
- What protocols do you implement in cases of accidental sightings or contacts with indigenous peoples in voluntary isolation and not contacted?

Specific recommendations:

- Raise the SERNAP Administrative Resolution No. 48/2006 to a Rank of Law that declares a part of the PNANMI Madidi as “Intangible Zone of Integral Protection of Absolute Reserve”, prohibiting the exploitation of natural resources or construction of large infrastructures.
- Adapt Law 450, implementing the intangibility of territories and the prohibition of extractive activities due to the high risk of ethnocide. Especially in areas where previous studies and other indigenous peoples are aware of the existence of PI-AVNC.
- Establish urgent protocols (operational, emerging, sanitary) in case of accidental sightings or contacts, agreed with the communities, local authorities and neighbors of the area and workers in the areas of Bloque Nueva Esperanza and Río Beni.

CASES DOCUMENTED IN THE REPORT:

RIGHTS	SECTORS	CASES	REGIONS
Healthy environment / water and food	Mining	Huanuni, Basin Lake Poopó	Andean
		Mercury coating by gold mining	Amazon
	Hydrocarbons	National Protected Areas / Lowlands	National/Low Lands (Chaco)
		Highly agrochemicals toxic	Low Lands (Chaco)
To the life of indigenous peoples in isolation	Mining	Jach'a Marka Tapacarí condor Apacheta	Andean
		Choquecota Marka del suyu Jach'a Carangas	
		Marca Quila Quila, Nación Qhara Qhara	
	Hydrocarbons	Takana II	Amazon
		Takovo Mora	Chaco
	Infrastructures	TIPNIS	Amazon Chaco - Santa Cruz Valleys
		Chepete Bala	
		Rositas	
Prior consultation	Hydrocarbons	Toromonas - Madidi	Amazon
		Ayoreo - Kaa Iya	Chaco
		Bloque Nueva Esperanza. Toromonas	