

contaminate Mother Earth in all stages of the hydrocarbon production process. They shall be subject to socio-environmental monitoring and evaluation by the communities involved. Formulation of hydrocarbon regulations and policies on the basis of co-management and consultation with local and indigenous communities.

Mining:

- The state must guarantee that mining companies comply with the corresponding requirements for mitigation, rehabilitation and environmental repair. Companies must guarantee compensation and indemnities for ecological damage caused. This shall be retroactive.
- Public and private mining companies must build treatment plants to treat contaminated waters to avoid damage to Mother Earth. All companies involved in mining activities must recycle the water they use and re-use it in their own productive processes thus minimising the contaminating effects of this activity. It is prohibited to use practices, damaging technologies and toxic chemical compounds that can be replaced by other environmentally friendly adequate alternatives.
- Public and private companies shall be subject to ecological and external audits, monitoring, social control and accountability to society. The Bolivian people shall participate in supervision throughout the mining process.

Protected Areas:

- Promote the creation of more protected areas. Adequate state funding for management of Protected Areas via a direct tax on hydrocarbons. Establish National and Local Councils for co-management with direct participation of indigenous and local communities. Promote eco-tourism.
- Strictest evaluation of environmental impact during and after the implementation of activities and projects already being implemented within the Protected Areas. Development of future extractive activities and projects (mining and hydrocarbons) and infrastructure (highways and mega reservoirs) is banned within Protected Areas - except in the event of prior informed consultation and consent of the affected population. Annulment of forestry, mining and hydrocarbon concessions that have not been agreed on with native, indigenous and campesino nations and peoples.
- Failure to comply with the Law of Mother Earth in Protected Areas shall be penalised by duplicating the maximum penalty provided by law. Enforce compliance of logging agreements. Penalise failure to comply with reforestation.

Across the policy sectors: the right to free, prior and informed consultation

- Native, indigenous and campesino nations and peoples have the right to free, prior and informed consultation to decide how the blessings of nature are exploited based on their own norms and customs, and to decide on construction and development of infrastructure in their territories. This applies to mining, hydrocarbons, forestry and alternative energy sources.

Two key principles of the law are **Social Control** and **Free, prior and informed consent of indigenous peoples**:

- Social Control (Spanish: "control social") involves active civil society participation in the drafting of laws and monitoring of the state to ensure transparency.



- Free, prior and informed consent of indigenous peoples is a right of native, indigenous and campesino nations and peoples enshrined in the Bolivian Constitution and international norms. There must be consultation of native, indigenous and campesino communities on projects that could affect them and Mother Earth prior to environmental licenses being awarded.

Institutional Framework

- A *Plurinational Council of Mother Earth* made up of representatives of civil society and government is established to oversee the implementation of the law. All government bodies and legislative bodies' decisions are subordinate to the decisions of the Council. The remit of the Council is to formulate and implement policies which guarantee balance, harmony and complementarity between living beings and ecosystems. Other responsibilities include implementing policies to protect river basins and biodiversity, as well as to regulate the activities of extractive industries.
- The *Ministry of Mother Earth* must comply with decisions issued by the Plurinational Council of Mother Earth. The Ministry's mandate is to enforce compliance with the Law of Mother Earth, to implement policies for the sustainable management of Mother Earth and to guarantee legally binding consultation for native, indigenous and campesino nations and peoples. There is direct participation of civil society in the Ministry with gender equality.

Mechanism for Incentives and penalties

To encourage the transition and shift to a new development model based on Living Well (Vivir Bien):

Incentives:

- The state shall fund research and the use of clean and renewable technologies such as solar and wind energy.
- Tax breaks for companies that invest in the application of state-of-the-art technologies that reduce emissions.
- Special regime of incentives and penalties to promote the reforestation of cities and the modernization of urban, regional and international transport.

Penalties:

Formally include the violation of the rights of Mother Earth in the Penal Code and declare this as a crime against nature and a crime against humanity. Crimes against Mother Earth, whatever their nature, are applicable because it is understood Mother Earth ensures the survival of all living beings.

The following are examples of environmental crimes against Mother Earth:

- The manufacture and use of chemical, biological and nuclear weapons;
- Deforestation;
- Hunting endangered animals;

Sentences for environmental crimes are issued according to the degree of environmental damage caused to Mother Earth based on technical-scientific analysis. All crimes committed against Mother Earth shall have a penalty of not less than five years imprisonment.

Conclusions

A new economic, social and political model is needed to stop the destruction of the environment and prevent irreversible climate change, as well as reduce inequalities of wealth and power.

The Law of Mother Earth is a basis to start a transition to a new model based on living in harmony with nature. This is an alternative philosophy to the current capitalist development model where market forces determine our relationship with nature.

The Law of Mother Earth also proposes an alternative philosophy to the green economy that seeks to put a price on nature and speculate with new financial products based on nature's functions and cycles, as well as continue with the same neo-liberal extractive model. Nature's complex inter-connected ecosystems cannot be separated into products to be bought and sold. We do not own nature; we are part of Mother Earth.

The full version of the law follows this executive summary. **Link** to the original document in Spanish (<http://www.cambioclimatico.org.bo/derechosmt/112010/AnteproyectoPactoUnidad.pdf>). Throughout 2010 over 1,500 members of Bolivia's five main social movements attended 20 workshops to draft the proposal for the law with technical support of the Bolivian Climate Change Platform. The proposal represents the voice of Bolivia's 36 indigenous nations. The social movements are the: Confederation of Bolivian Campesino Workers Unions (CSUTCB), National Confederation of Native Indigenous Peasant Women "Bartolina Sisa" (CNMCIOB BS), Confederation of Intercultural Communities of Bolivia (CSCIB), Confederation of Bolivian Indigenous Peoples (CIDOB) and the National Council of Ayllus and Markas of Qullasuyu (CONAMAQ).

Link to the Bolivian Climate Change Platform position on Rio+20 and the green economy.

http://www.cambioclimatico.org.bo/derechosmt/052012/100512_2.pdf

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Proposal for a Law of Mother Earth

Plurinational State of Bolivia



Executive summary

The proposal for a framework Law of Mother Earth is to begin a transition to a new model based on the principle of living in harmony with nature ("Living Well" - in Spanish "Vivir Bien"). The objective is not to go back to the pre-industrial era. A transition to a new model will not take place immediately but the transition does need to begin. We urgently need alternatives to the capitalist development model that destroys the environment and has caused the financial, energy and food crises, as well as climate change and deep inequalities within and between societies.

This document was drafted by Bolivia's main social movements in November 2010. The aim of this English translation is to share the proposal and philosophy so others can use the document as they wish in their regional, national and local contexts. The document below is the full version by Bolivia's social movements. The Bolivian Plurinational Assembly has been due to approve a shorter consensus version of this law since early 2011.

Objective

The fundamental objective of the framework Law of Mother Earth is to guarantee the co-existence and preservation of life. The purpose is to protect, conserve, restore and safeguard the blessings of nature and Mother Earth. The law establishes legal instruments and mechanisms for the prevention and sanction of crimes against Mother Earth.

Philosophy – humans are part of nature

This law re-establishes the link between humans and nature that has been broken by the capitalist neo-liberal model. The link between humans and nature will be further weakened if the proponents of the green economy are successful in putting a price on nature's functions such as trees capturing carbon and generating oxygen. It is incorrect to assume we will only care for nature if we put a price on it. The solution is not to make nature into a commodity but to shift our thinking to see humans as part of nature and therefore the need to protect the environment instead of endlessly exploiting it to make money.



Rights of Mother Earth – a subject with rights

This law establishes that Mother Earth is a subject with rights. Mother Earth is not an object to be exploited without limit. This is an attempt to create a new legal framework that goes beyond human rights. It establishes the obligation to defend the rights of Mother Earth.

The following are recognised as the rights of Mother Earth:

1. The right to life and to exist.
2. The right to respect.
3. The right to continue her cycles and vital processes, free from human disturbance.
4. The right to maintain her identity and integrity as a differentiated, self-regulated and inter-related being.
5. The right to pure water as the source of life.
6. The right to clean air.
7. The right to comprehensive health.
8. The right to be free of contamination and pollution, toxic and radioactive waste.
9. The right not to be genetically altered and modified in her cellular structure, threatening her integrity or vital health functions.
10. The right to full and timely restoration and decontamination due to the infringement of the rights recognised in this Law caused by human activities.
11. The right to reforestation.
12. The right to the balanced and harmonious management of the blessings of nature.
13. The right not to be affected by mega hydroelectric, infrastructure and development projects which affect the balance of the eco-systems and populations inhabiting the territories concerned.
14. The right not to be subjected to high-risk energy technologies with profound ecological and social impact, such as nuclear energy and processes for extraction, enrichment and dumping of waste.

Duties of the state

The state must implement the Law of Mother Earth and public policies that protect nature and deal with the causes and effects of climate change. The state must prohibit extractive activities such as mining, hydrocarbon and forestry in ecologically fragile areas, and that affect water sources. In addition the state must apply legally binding free, prior and informed consultation with native, indigenous and campesino nations and peoples for any project that may affect the harmony and balance of the natural cycles of Mother Earth.

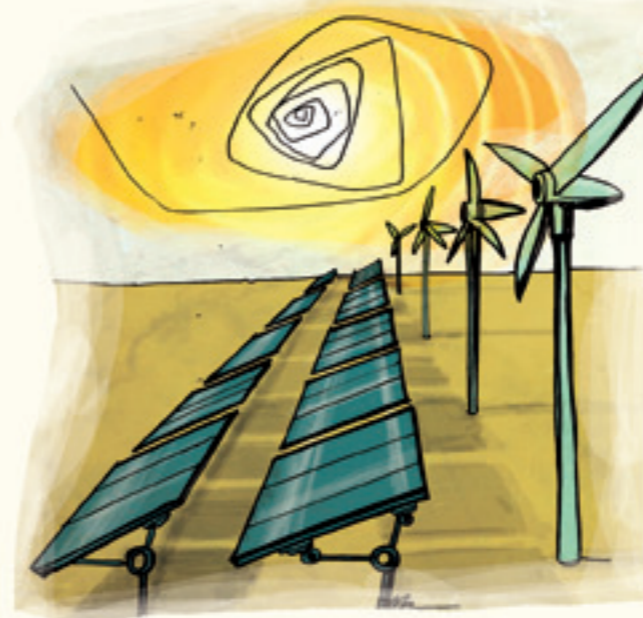
Duties of the population

Citizens are responsible for using nature in a sustainable and balanced way to ensure that human well-being does not affect the balance and well-being of Mother Earth. The population must pressure for institutions to meet their responsibility to defend the rights of Mother Earth and of all beings.

It is the duty of citizens to guarantee that those responsible for violations of the inherent rights of Mother Earth are punished and obliged to restore the integrity and health of Mother Earth. Citizens also need to participate in drafting environmental, economic and social public policies in harmony with Mother Earth as well as guaranteeing food sovereignty and security through ecological and organic production.

Policy proposals by sector

The basis for recommendations in each policy sector is a new way of seeing natural resources. The capitalist neo-liberal model sees nature as a set of natural resources to be



exploited without limit. This law re-orientates this view towards blessings of nature that are to be protected because they are part of the complex set of inter-connected ecosystems we depend on.

A summary of policy proposals in the following areas:

Air:

- The entire population has the right to clean air. The state is obliged to control, preserve and secure a healthy environment.
- The state must regulate productive, transport and industrial activities, the management of solid residues, landfills and enterprises that generate gases that contaminate the atmosphere and ecosystems.

Water:

- Water constitutes a fundamental right for life. Water is a blessing of nature and the source of life. Water resources cannot be privatized or controlled through concessions.
- It is the duty of the state to manage, regulate and plan the adequate and sustainable use of water resources including processes, especially mining and hydrocarbons, which demand considerable volumes of water. Recycling of water for industrial use.

Soil:

- The state shall promote agricultural production programmes which permit the generative and regenerative capacity of the soil through crop rotation.
- Shift away from fertilisers and pesticides that cause contamination of soils, water and air that affect the health of living beings. Encourage and provide incentives for the use of ancestral knowledge and technologies for agricultural and organic agricultural production.

Biodiversity:

- The state shall prohibit imports of genetically-modified organisms for use in agricultural production. Prohibit the use of bio-technology to alter the genetic heritage of animal and vegetable species and micro organisms for commercial purposes.
- Prohibit and sanction by law indiscriminate hunting and fishing of native species.

Forests:

- Together with the Bolivian people the state shall create regulations for the protection and conservation of forests. A system of severe penalties for non-compliance for those who cause damage to the forests and jungles of Mother Earth including: cancellation of contracts, fines and 5 year prison sentences.
- Reforestation actions are a pre-condition for private and public timber companies. Some species of trees must be protected by the State, for their value and ecological functions, and not be subject to deforestation despite their perceived financial value. Environmental audits shall be carried out for timber companies with the active participation of affected communities and civil society.

Alternative Energy sources

- The state shall commit the necessary resources to promote intercultural research to identify alternative energy sources. The state shall implement alternative renewable energies (e.g. wind and solar energy) with the prior and informed consultation of the peoples involved.
- The use of agricultural production for the manufacture of biofuels is completely banned.

Hydrocarbons (oil and gas):

- Public and private companies polluting the environment are obliged to carry out the corresponding environmental mitigation, rehabilitation and repair - guaranteeing compensation and indemnity for damage caused to the affected communities. This is of a retroactive and inalienable nature.
- Companies must use clean technology which does not

