

## **Return to Pachamama**

### Lecture on Bolivian legislation about Mother Earth

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#### **Introduction**

I am happy to share with you this moment of reflection on Bolivian legislation about the rights of Mother Earth.

[2] Let me begin by explaining that there are two laws: The first one, law n° 071 in the year 2010 about the Rights of Mother Earth, and the second one two years later, law n° 300, entitled “Framework Law of Mother Earth and Integral Development for Living Well”.

[3] On 21<sup>st</sup> December 2010 the law for the Rights of Mother Earth was enacted, with the aim of recognizing the rights of Mother Earth as well as society’s duties and obligations to her. The Department of Protection (ombudsman) for Mother Earth was created, with the mission of safeguarding the enforcement, promotion, diffusion and compliance with the Rights of Mother Earth as established in this law.

Subsequently, on 15<sup>th</sup> October 2012, the “Framework Law of Mother Earth and Integral Development for Living Well” (Law N° 300) was enacted. It aims to establish the vision and foundations of integral development in harmony and equilibrium with Mother Earth in order to Live Well, guaranteeing the continuity of the capacity for regenerating local knowledge and ancestral wisdom, within the framework of the complementarity of rights, obligations and duties. It also seeks integral development as a means to achieve Living Well, the basis for planning, public administration and investments, and the strategic institutional framework for its implementation.

**[4] We are going to watch now a short video to understand some motivations to enact this law.**

#### **[5] Contents of the Mother Earth legislation**

In broad terms, this Rights of Mother Earth legislation has mandatory principles: harmony, common good, the guarantee of regenerating Mother Earth, respect and defense of the Rights of Mother Earth, non-commercialization, and interculturality (Law No 071, Art.2).

#### **[6] *Definition of Mother Earth***

Mother Earth is defined as “a dynamic living system comprising an indivisible community of all living systems and living organisms, interrelated, interdependent and complementary,

which share a common destiny”.(art.3).

Mother Earth is considered sacred, from the worldviews of nations and most indigenous peoples.

[7] *Living Systems*

After stating that Mother Earth is a “dynamic living system”, article 4 of the Law gives an explanation of “Living systems.” They are “complex and dynamic communities of plants, animals, microorganisms and other beings and their environment, where human communities and the rest of nature interact as a functional unit under the influence of climatic, physiographic, and geological factors, as well as production practices, Bolivian cultural diversity, and the worldviews of nations, original indigenous peoples, and intercultural and Afro-Bolivian communities.”

**[8] We may watch an optimistic interpretation of a dynamic living system:**

[9] *Legal Status of Mother Earth*

This is the legal core of the law on the Rights of Mother Earth. Article 5 states that: “For the purpose of protecting and enforcing her rights, Mother Earth takes on the character of the collective public interest. Mother Earth and all her components, including human communities, are entitled to all the inherent rights recognized in this Law. The exercise of the rights of Mother Earth will take into account the specificities and particularities of her various components. The rights under this Act shall not limit the existence of other rights of Mother Earth.”

[10] *Rights of Mother Earth*

**[11] From indigenous perspective, we are going to watch three minutes video about the rights of Mother Earth:**

[12] Mother Earth has the following rights:

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

[13] To diversity of life: The right to the preservation of the differentiation and variety of beings that make up Mother Earth, without being genetically altered or structurally modified in an artificial way that would threaten their existence, functioning or future potential.

[14] 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 her 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 her components.

[15] To equilibrium: The right to the maintenance or restoration of 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.

[16] 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.

[17] **Now, we watch a video with a commentary on Rights of Mother Earth.**

[18] *Obligations of the Plurinational State of Bolivia*

These are the duties of the Plurinational State of Bolivia (Art.8):

To develop public policies and systematic actions of prevention, early warning, protection, and precaution in order to prevent human activities causing the extinction of living populations, the alteration of the cycles and processes that ensure life, or the destruction of livelihoods, including cultural systems that are part of Mother Earth.

To develop balanced forms of production and patterns of consumption to satisfy the needs of the Bolivian people to live well, while safeguarding the regenerative capacity and integrity of the cycles, processes and vital balance of Mother Earth.

To develop policies to protect Mother Earth from the exploitation of her components by multinational and international enterprises, from the commodification of living systems or the processes that support them, and from the structural causes and effects of global climate change.

To develop policies to ensure long-term energy sovereignty, increased efficiency and the gradual incorporation of clean and renewable alternative sources into the energy matrix.

To demand international recognition of environmental debt through the financing and transfer of clean technologies that are effective and compatible with the rights of Mother Earth, among other mechanisms.

To promote peace and the elimination of all nuclear, chemical, and biological arms, and weapons of mass destruction.

To promote the growth and recognition of the rights of Mother Earth in multilateral, regional and bilateral international relations.

**[19] *People's Duties***

The duties of natural persons and public or private legal entities are:

To uphold and respect the rights of Mother Earth.

To promote harmony with Mother Earth in all areas of her relationships with other human communities and the rest of Nature in living systems.

To participate actively, individually or collectively, in generating proposals designed to respect and defend the rights of Mother Earth.

To assume production practices and consumer behavior in harmony with the rights of Mother Earth.

To ensure the sustainable use of Mother Earth's components.

To report any act that violates the rights of Mother Earth, living systems, and/or their components.

To comply with the convention of competent authorities or organized civil society to implement measures aimed at preserving and/or protecting Mother Earth.

**[20] *Mother Earth Authority***

Finally, this Act concludes by establishing the Mother Earth Authority, whose mission is to ensure the validity, promotion, distribution and compliance with the rights of Mother Earth. A special law will establish its structure, function, and attributes.

That special law was approved by the Supreme Decree 1679 of August 13, 2013, which regulates the application of the law.

**[21] *The origins of the Act***

Already in the new Bolivian Constitution of 2009, the first paragraph of the Preamble states: "In ancient times mountains arose, rivers moved, and lakes were formed. Our Amazonia, our swamps, our highlands, and our plains and valleys were covered with greenery and flowers. We populated this **sacred Mother Earth with different faces**, and since that time we have understood the plurality that exists in all things and in our diversity as human beings and cultures. Thus our peoples were formed, and we never knew racism until we were subjected to it during the terrible times of colonialism."

This explicit mention of Mother Earth as sacred constituted the foundation and also the enabling condition for the draft law on the Rights of Mother Earth that was sanctioned just one year later. If the Constitution has stated that Mother Earth is sacred, then the new law on Mother Earth will become a concrete reality.

## **[22] Indigenous social and cultural background to the law**

As you will no doubt have realized from some of the expressions, “Mother Earth” isn’t simply the equivalent of “Nature.” Mother Earth represents Nature but is a wider concept, far-reaching and comprehensive, a synonym for all-inclusive life, and has a sacred quality. So it is a religious and spiritual reality. In synthesis, Earth has a spiritual character.

It is important to be aware of this, as we are not talking about a law for the rights of Nature or only about the environment. The novelty of this law in the first place is that it goes beyond Nature and the environment and natural resources.

This semantic turn has a deeper background in Amerindian religions and cultures, concretely those in Bolivian lands.

## **[24] Let’s watch a very short video that expresses that “semantic turn”:**

In general, we can say that the Amerindians don’t have a “natural” sphere, or a concept of what is “natural” or “Nature” as something separate or in opposition to society and human beings. Rather they interpret the world around them, the jungle where they hunt and the waters where they fish, the mountains that surround them, and they communicate with many animals and plants.

It’s well known that native Amerindians don’t have an anthropocentric view of the economy and the environment. These peoples consider that everything has life. They respect Earth and the living beings that inhabit our planet, having an attitude of seeking balance among all beings within the ambit of an indigenous community, so that abundance and generosity (splendid) contrast with scarcity and refusing to give (disastrous). This is the understanding of Pachamama in the Andean world. Nevertheless, so as not to remain with an almost romantic reading, it has to be said that there are a variety of understandings of Pachamama in a native urban world. A mystical shadow of creole and European understandings are incorporated within her that unconsciously identify Mother Earth with goodness and natural resources.

At a deep level there are two understandings of Pachamama, so we need to ask which of these forms the background for the Rights of Mother Earth legislation.

## **[25] Critics and Challenges**

We need to ask if constitutional reform in Bolivia has permitted the introduction of substantial environmental changes with real repercussions. A first answer must be negative, given that 8 years after the enactment of the law for the Rights of Mother Earth there is no palpable biocentric change of direction, and it's not clear in what way the rights of Mother Earth are really respected.

In order to understand the process, we need to remember that in spite of the fact that the new Bolivian Constitution in 2009 was, as I said before, the basis for the legislation on Mother Earth and Living Well, the same Constitution was at the same time a source of contradictions, or at least of fundamental tensions, between anthropocentrism and biocentrism.

On the one hand the right to a healthy environment is defended, and on the other hand it is clearly stated in multiple articles that one of the essential functions of the Plurinational State of Bolivia is the “industrialization” of natural resources (arts. 9, 312, 355). Even if this could be interpreted as necessary for Bolivia's fragile situation as it seeks its own productive processes, the contradiction in the formulations of the Constitution don't disappear. Between the lines of Bolivia's Constitution, traditional developmentalist visions are perpetuated and the ideology of progress is maintained.

[26] In fact, from the starting point of the ambiguity of these expressions, the conflicts and tensions between environmental measures and business ventures of a productive character reach their highest point. This explains the resistance of environmentalists and indigenous peoples' organizations to Government projects and programs. A typical example of these conflicts is the patent opposition to the Government project to build a highway of more than 300km through the Indigenous Territory and National Park “Isiboro Sécuré” (TIPNIS). Another recent example is the imminent risk that the Government could reinforce its relationship with transnational companies such as Shell, Repsol, Vintage, Petrobras and Cancabria. An agreement has been signed with Cancabria Company to carry out exploration by means of fracking, a technique that is highly criticized globally due to the damage to the environment caused by the fracturing of the rock through the application of very high pressure and chemicals.

It is clear that the new Constitution (2009) could not resolve the ambiguities that still persist. Tensions have grown among those who did not agree with the recognition given to Pachamama, as seen in the continuation of extractivist strategies in the successive terms of government of President Evo Morales. It is precisely here that there is a great need to strengthen environmental policies to finally crystalize the rights of Mother Earth by means of a specific law.

Nevertheless, the Rights of Mother Earth law could not satisfactorily settle the tensions generated by the extractivist policies with undesirable environmental consequences, which have persisted in spite of the legislation.

For this reason an enormous effort was made to promote a new, more detailed and wide-ranging law. The result of this effort is law No. 300. It has a more complete structure, with elements that are more precise and practical for environmental administration, even though certain elements remain that are too general or indirect. But this second law was equally unable to resolve the underlying problems, as environmental policies and management have continued in the developmentalist mode. Even if it is said that these have to do with an “integral development,” what happens in practice could lead to a utilitarian ethic.

Finally, hope was maintained in the resulting creation of a Plurinational Authority for Mother Earth that would promote and protect the Rights of Pachamama. But unfortunately the unilateral focus has been on climate change, neglecting in practice the Rights of Mother Earth. This orientation of the Mother Earth Authority was confirmed with the enactment of the Supreme Decree n° 1696 in 2013.

### **[27] Theological and Cultural reflections**

Aware of the profound structural changes that we live at the cultural and religious levels, where “an integral conception of the human being, of his or her relationship to the world and to God, is fast disappearing” (DA 44), it becomes urgent to return to ultimate meaning in the religious and spiritual sense as it is lived in native Amerindian wisdom. In reality, indigenous peoples have been able to stay alive in the midst of adverse colonial situations, and in recent years they have managed to articulate socio-cultural and even political processes that are original and proactive. What supports these creative routes is the symbolical-spiritual character of daily life for indigenous peoples.

For this reason we can approach the lived experience of indigenous peoples in order to learn from their wisdom, which, insofar as it is authentically human, represents one of the valid models to bear in mind today in every quest for meaningful living. Indeed, such a proposal is framed within the general concerns of many men and women who accompany the overall process in the perspective of a return to a deep encounter with ultimate Mystery, that gives fullness to our pilgrim steps, along with others and the whole cosmos.

### **[28] Lets watch a video about the religious beliefs and practices:**

To address the religious sphere from the starting point of spirituality and ethical responsibility presupposes the existence of other approaches to this religious sphere, which in the best of cases set aside the spiritual as a non-constitutive dimension of the experience of a given people or culture. Approaches that may be considered as fundamental, among other dimensions, are those individual, institutional, normative, political or economic approaches. In our case the religious sphere is broached from the perspective of the spiritual, spirituality being understood as that unique deep and communitarian experience of relationship with some absolute ultimate Mystery, which determines, impregnates and gives meaning to daily life for the believer.

We know that religion is constitutive of the life of a people; the “particular way of seeing life and building the world,” and thus as a symbolic system it offers “comprehensive meaning to life” that responds to the motivations and the deep and ultimate quests that people have in harmony with their surroundings. More concretely, “sacred symbols have the function of synthesizing the ethos of a people –the tone, the character and quality of their life, their aesthetic and moral style- and their world vision, the scenario that they elaborate about how things are in reality, their widest ranging ideas about order.” And they do so in such a way that religion becomes a system of beliefs, rites, religious organization and ethical norms.

This symbolic conception of the religious sphere on the one hand permits an understanding of human spiritual experience, beyond individual precisions, configurations or “religious constellations.” On the other hand it allows a close linking of the religious sphere with the ethical sphere, in its dimension of human-cosmic responsibility. In this way, according to Raimon Pannikar, every symbol lived by the human person refers to or reconnects with the Symbol *par excellence*, which is a “cosmotheandric reality,” that is, precisely where the cosmos (creation), Mystery (God) and the human person (man-woman) are closely related and interconnected. From the viewpoint of Christian religion-spirituality, this ultimate reality is precisely the Trinitarian Mystery of God. In a similar way, from the perspective of indigenous Christian experience, especially the Andean world, cosmotheandric reality is expressed principally through the symbol of “Pacha.” For Andean indigenous peoples, Pacha is understood as a “cosmic vital nest” and this cosmic nest is the place for living well, in harmony with the whole (MAMANI 2012:32). We might reckon this affirmation as one regarding Pachamama realm.

In the Andean world, the principal determinant in lived experience and in the conception of the cosmos is that “relationality is everything,” in other words, “every element, being and person is related with all other elements, beings and persons [...] everything is in some way related (linked, connected) with everything else” (ESTERMANN 2011:201). The basic entity of Andean cosmo-lived-experience is not the substantial “entity,” but rather the relationship, whose primordial structure allows the constitution of individual entities, and not *vice versa*: “‘reality’ (as a holistic ‘whole’) ‘is’ (exists) as an ensemble of interrelated ‘beings’ and happenings” (ESTERMANN, 2011: 290.). This principle is made explicit in at least 5 life axioms, which characterize a deeply symbolic given daily ethic: complementarity, reciprocity, connection, comprehensiveness, cyclicity. In this sense it can be understood that “what is typical of religions is to *reconnect* individual existence with total reality. Their *raison d’être* is to awaken consciousness about the person’s state of separation and lethargy, and reintegrate him or her into this communion [...] they put the person face to face with adoration, gratitude and offering” (MELLONI 2011:165).

Pope Francis of Rome, in the encyclical *Laudato si’*, reads reality as integral and relational. He affirms that “the whole world is connected” (LS 16) and “everything is connected” (LS 16, 91, 117, 138, 240), “everything is related” (LS 70, 120, 142), and everything is

“intimately related” (LS 137, 213). It has to do with the balance between taking care of one’s own life, and promoting fraternity and justice (LS 70), love of Nature and of other human beings (LS 90), helping people who are marginalized or who have disabilities (LS 117). He also refers to an integral ecology, in its human-social dimensions and in the biological-physical-chemical components of the planet (LS 137, 138).

The Amerindian experience of Mother Earth and “living well” (*suma qamaña, sumaj kawsay*) is a good provocation for Christian faith to revisit the Trinitarian Mystery of God from some common key ideas lived by both traditions: the centrality of Life as salvation for all; relational conviviality between and with all that exists, as an itinerant style of encounter, openness and care for biodiversities; ethical-political commitment as auto-critical spirituality which reads the signs of the times; celebratory memory, as a permanent revisiting of the founding myths or principles which generate life-salvation.

Personally speaking, I believe that the ignatian intuition of “finding God in all things” enables us to consider “God existing in every single one of his creatures: giving existence to all elements; to plants, so that they have vegetative life; then, to animals so that they have sensation; finally to humans beings so that they would also have intelligence” (SE 235). In this spirituality, as in many others, probably we have a good mean to seriously consider that God works and somehow labors on our behalf in our Mother Earth (SE 236). Hence, God himself could be contemplated as the Mystery of the World.

## **[29] Conclusion**

I don't endorse every aspect of this law but I do see it as an innovative step forward in terms of global thinking from a local situation.

In fact, the debate installed about the Rights of Mother Earth (Rights of Nature, of the environment, and biocentrism) has extended considerably in various academic circles and in societal organizations.

The debate that began in Bolivia, Ecuador and partly in Venezuela is spreading in countries of the region like Brazil, Argentina and Peru.

Concretely, the interest aroused internationally by the postures of the Bolivian Government reached its high point in 2010 at the “World Conference of Peoples on Climate Change and the Rights of Mother Earth” that took place in Cochabamba, Bolivia. At this Conference the idea of a Universal Declaration of the Rights of Mother Earth was launched.

## **[30] We can watch a video recorded during that World Conference in Cochabamba:**

In 2014, in Ecuador the “World Ethical Tribunal for the Rights of Nature” was created. So the multiplying effect of the efforts to create legislation more sensitive to Mother Earth are in full momentum. In fact, last year, Colombia’s Constitutional Court granted legal

personhood to the Río Atrato, part of the Chocó biogeographic region, in New Zealand, the country's lawmakers have granted to the sacred Whanganui Maori river the legal rights of a human. India's High Court of Uttarakhand has declared the Ganges and Yamuna rivers living entities with legal rights and shortly after, the Madhya Pradesh state legislature also passed legislation recognizing the Narmada River as a living entity, citing both religious reasons and the river's importance for drinking water and agriculture.

Two weeks ago, in a historic ruling, the Provincial Court in Ecuador accepted evidence of environmental impacts provided by the indigenous people of Sinangoe and the ombudsman, charged the government with not having consulted the Kofan indigenous people, denounced the mining operations for having violated indigenous rights to water, food and a healthy environment, and cancelled all mining activity in more than 52 concessions at the foothills of the Andes. The ruling uses Ecuador's new law on the rights of nature, also forces authorities to set in place restoration measures in an area that had been already heavily impacted by the gold mining operations. We hope that these efforts will continue to enthuse more countries in the region and in the world to move towards a clear "integral ecology."

Nevertheless, we cannot lose hope when we verify every day that governments (including the same ones that promote laws in favor of Mother Earth) persist with strategies of conventional development and in perspectives that are merely anthropocentric.

**[31] Thank you! We watch a video clip with traditional Bolivian Music talking about Pachamama.**

## References

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