

Rights of Nature Case Study

Mother Earth (Bolivia)

In October 2012, Bolivia enacted its Framework Law of Mother Earth and Integral Development for Living Well. This law recognises the rights of nature, including the rights to life, diversity, water, clean air, equilibrium, restoration and pollution-free living. It also authorised the creation of two new institutions to realise these rights in practice.

Location	Bolivia
Date	October 2012
Source	Legislation – Law 300 of the Plurinational State of Bolivia of 2012 / La Ley Marco de la Madre Tierra y Desarrollo Integral para Vivir Bien
Jurisdiction level	National
Context	<p>In 2010, Bolivia enacted a Law of the Rights of Mother Earth (Law 71 of 2010), which recognised the rights of Mother Earth (and all its components, including human communities), as well as the obligations and duties of the state and society to ensure respect for these rights. Law 71 of 2010 was a relatively short document, consisting of only 10 articles, which introduced the purpose and principles, definitions, rights of Mother Earth and corresponding duties of the state and society, and foregrounded the establishment of a Mother Earth Ombudsman's Office (<i>Defensoria de la Madre Tierra</i>) to protect these rights.</p> <p>Law 71 of 2010 was part of a complete restructuring of the Bolivian legal system following the introduction of a new constitution in 2009. It was strongly influenced by a resurgent Indigenous Andean spiritual world view which recognises Mother Earth (Pacha Mama) as a living entity, with humans existing as part of nature and equal to all other entities. It faced minimal opposition given a comfortable majority enjoyed at the relevant time by President Evo Morales's ruling party, Movimiento Al Socialismo, as well as the support of civil society groups and social movements including the largest union of peasants in Bolivia, the Confederación Sindical Única de Trabajadores Campesinos de Bolivia, whose members helped draft the law.</p> <p>The Framework Law of Mother Earth and Integral Development for Living Well (Law 300 of 2012) was then drafted to operationalise the earlier Law 31 of 2010. It was enacted on 15 October 2012.</p>
Rights of Nature recognition	Article 1 of the Framework Law states its objective as being to “establish the vision and the fundamentals of integral development in harmony and balance with Mother Earth to live well, guaranteeing the continued capacity of Mother Earth to regenerate natural systems, recuperating and strengthening local and ancestral practices, within the framework of rights, obligations and

responsibilities”.

The Framework Law sets out the core principles governing its implementation (Article 4) and defines Mother Earth as “...the dynamic living system made up of the indivisible community of all life systems and beings living, interrelated, interdependent and complementary, which they share a common destiny. Mother Earth is considered sacred; feeds and is the home that contains, sustains and reproduces all living beings, ecosystems, biodiversity, organic societies and the individuals that compose it.” (Article 5.1)

The rights of Mother Earth to be protected are those set out in Article 7 of Law 71, which provides:

I. Mother Earth has the following rights:

- 1. To life:** The right to maintain the integrity of living systems and natural processes that sustain them, and capacities and conditions for regeneration.
- 2. 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.
- 3. 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.
- 4. 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.
- 5. 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.
- 6. To restoration:** The right to timely and effective restoration of living systems affected by human activities directly or indirectly.
- 7. 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.

In terms of protection of the rights in practice, the Framework Law specifies that an infringement of the rights of Mother Earth constitutes an infringement of the collective and individual rights of the people (Article 38), although standing to bring a claim is restricted to those individuals or groups directly affected by an alleged violation (Article 39).

The law authorised the creation of two new institutions to support the law:

- A Mother Earth Ombudsman's Office (*Defensoria de la Madre Tierra*), as a counterpoint to the human rights ombudsman office (*Defensoría del Pueblo*), to investigate alleged violations of the rights of Mother Earth and issues recommendations to the government; and

	<ul style="list-style-type: none"> • The Plurinational Mother Earth Authority (<i>Autoridad Plurinacional de la Madre Tierra</i>) (APMT) within the Ministry of Environment and Water, as the state entity responsible for much of the development, overseeing and co-ordination of projects, programmes and research relating to climate change. <p>The APMT operates through three mechanisms: (1) the Joint Mechanism of Mitigation and Adaptation, which promotes the integral management and sustainable use of the forests and life systems of Mother Earth, and the conservation, protection and restoration of life systems, biodiversity and environmental functions; (2) the Mitigation Mechanism, which establishes the country’s strategic guidelines aimed at reducing and limiting GHG; and (3) the Adaptation Mechanism, which focuses on the country’s resilience and actions to address climate change impacts.</p>
<p>Significance</p>	<p>The Framework Law was an essential step towards the operationalisation of Law 71 of 2010, considered to be the first national environmental law globally to recognise the rights of a natural entity. Further, it sets up an institutional structure to protect these rights in practice and reframes the relationship between humans and the natural world</p> <p>Significantly, the Framework Law and Law 71 of 2010 are firmly embedded in the vision of a new form of development which is in harmony with Mother Earth and oriented towards a good way of living (<i>vivir bien</i>) for communities, and which reframes the status of humans and other communities within the natural world as equal. As outlined in Part II of the Framework Law, this approach is an explicit alternative to the current dominant global neoliberal economic practices. It encourages the leadership and application and strengthening of traditional rights, knowledge and practices of the state’s majority Indigenous population towards this goal and towards the protection of rights of nature.</p> <p>Of particular importance given current global challenges, the Framework Law contains robust provisions connected with climate change and promotes a climate justice approach which prioritises those most vulnerable to climate impacts. It outlines the state’s vision, relevant rights and responsibilities and strengthens institutional capacity to monitor, mitigate and adapt to climate change.</p>
<p>Implementation</p>	<p>The APMT was created by Supreme Decree 1696 in 2013, following various bureaucratic delays and obstacles. However, to date the Mother Earth Ombudsman's Office has reportedly not been established nor have any cases being investigated or decided with respect to the rights of Mother Earth. Tensions continue between the vision set out in the Constitution of Bolivia and the Framework Law and ongoing extractivism across the country.</p>

Key documents and links	<ul style="list-style-type: none">☼ Full text of Framework Law of 2012 (in Spanish)☼ Full text of Framework Law of 2012 (in English) <p>See also:</p> <ul style="list-style-type: none">☼ Full text of Law 71 of 2010 (in Spanish)☼ Full text of Law 7 of 2010 (in English)☼ Autoridad Plurinacional de la Madre Terra (APMT) (in Spanish)☼ The Constitution of Bolivia 2009 (in English)
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