



Franciscans International

A voice at the United Nations

TO: *Mr James Anaya*
Special Rapporteur on the situation of
Human rights and fundamental freedom of
Indigenous Peoples

Ms Raquel Rolnik
Special Rapporteur on Adequate Housing
As a component of the right to
An adequate standard of living

URGENT APPEAL

Geneva, 28 September 2011

Franciscans International is deeply concerned at the Construction of a highway through the Isiboro Sécure National Park and Indigenous Territory (TIPNIS) which may pose a serious threat to the ecosystems of the area and to the lives and livelihoods of the indigenous peoples that live there

The government of Bolivia has begun to build a 306 km highway linking the cities of San Ignacio de Moxos in the Department of Beni and Villa Tunari in the Department of Cochabamba that would cut through the Isiboro Sécure National Park and Indigenous Territory (TIPNIS). This project is part of a mega highway from northwest Brazil to Chile and is being built by the Brazilian firm OAS Ltd. with funding from the Brazilian National Bank of Economic and Social Development (BNDES) and the Government of Bolivia.¹

The TIPNIS has guarantees of protection under the constitution and other laws of the Plurinational State of Bolivia, first as a national park reserve,² and secondly as an autonomous indigenous territory held collectively by the Yuracaré, Moxeño, and Chimán peoples.³

Because these guarantees of protection have been violated, representatives of indigenous groups and concerned environmental organizations and their supporters⁴ began a peaceful 595 km march on August 15, 2011 from Trinidad to La Paz. Their hope is to encourage the government of President Evo Morales to remain faithful to his legal and constitutional commitment to mother earth and the indigenous peoples and not to cave into the pressures of transnational corporations, ranchers, timber and mining interests, and settlers that are slashing and burning the land primarily for the cultivation of coca. Unfortunately, these peaceful marchers have encountered violence, not only from those who are in favor of a highway through the TIPNIS, but also from the government of Bolivia through its police force.

Franciscans International is seriously concerned that the construction of a highway through the center of the TIPNIS will cause significant damage to the rich biodiversity of this important Amazonian ecosystem as well as to the society and cultures of the indigenous peoples who are the legal holders of the title to the land. Moreover, Franciscans International deplors any violent police intervention in the free exercise of the civil and political rights of the people.

¹ Bolivian Road Administration <http://www.abc.gob.bo/Presidente-Morales-dara-inicio-a>

² PNIS (Isiboro Sécure National Park) was created on November 22, 1965, Supreme Decree No. 07401

³ TIPNIS with 1,225,347 hectares was recognized as indigenous territory, September 24, 1990, Supreme Decree No. 22610. In February 2009 with Supreme Resolution 230292, the Sub-Central TIPNIS was given property title to an area reduced to 1,091,656 hectares and a red line was set prohibiting new settlements.

⁴ More information available at <http://www.IsiboroSecure.com>.

Background information

Environment Impact of the Highway:

The people have not had a chance to review any information the government might have regarding environmental impacts because the construction of the highway was begun even before the completion, publication and dissemination of the Strategic Environmental Assessment⁵ or of the Environmental Impact Evaluation. However various sources have pointed out the following:

- The building of the highway will necessitate the clearing of an area 70 km long and 10 m wide and the cutting of approximately 500,000 trees. One study projects that 18 years after construction of the highway 64.5% of forest cover of the TIPNIS will be devastated, i.e. over 600 000 hectares deforested.
- An estimated 3 400 species of flora and fauna live in that area and will suffer damage to their ecosystems. This includes 2 500 plant species, 108 species of mammals, 470 species of birds, 39 species of reptiles, 53 species of amphibians, 188 species of fish and 120 species of insects, some of which are endemic to the region and may be wiped out.
- Given its extensive wetland and forest area, TIPNIS determines the climate of the surrounding agriculturally productive valleys. The construction of the highway could have serious consequences for water availability and therefore food production for the entire country.

Violation of Indigenous Rights:

- As an autonomous indigenous territory, the indigenous people that collectively hold the title to TIPNIS have the right to prior informed consultation, but this right has been violated.
- The environmental damage to the TIPNIS as noted above will have consequent adverse affects on indigenous rights to health, to a healthful habitat, to clean water, and to traditional food supplies.
- The road will lead to increased colonization, with the potential risk of increased clashes between settlers and indigenous peoples who need to protect the territorial security and natural resources of their autonomous territory.
- Greater accessibility to reserve land will likely lead to increased exploitation of natural resources with the potential risk of exclusionary development of a predatory nature and thereby increase the wealth of the exploiters and the poverty of the indigenous peoples of TIPNIS.

Violation of National Laws:

The construction of the San Ignacio de Moxos - Villa Tunari without public consultation of the people of TIPNIS contravenes Articles 30, 343 and 345 of the Political Constitution of the State concerning the right to prior consultation and informed decisions that may affect the quality of the environment. It also violates Articles 25 and 26 of the Law of the Environment regarding requirements for environmental impact studies and Article 93 of the same that states that "everyone has the right to be informed, truthfully, in a timely manner, and sufficiently about tissues related to environmental protection, and to formulate petitions and to promote individual or collective initiatives before the relevant authorities that relate to such protection."⁶

Violation of International Laws:

The Bolivian Government has repeatedly and stridently insisted that they do not consider consultation to be legally binding. However, ILO Convention 169⁷ concerning Indigenous and Tribal Peoples in Independent Countries clearly states that "peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programs for national and regional development which may affect them directly."⁸ This is echoed in the Universal Declaration of Indigenous Rights⁹ which grants "the right to determine and develop priorities and strategies for exercising their right to development."¹⁰ Moreover, indigenous peoples are guaranteed "the right

⁵ Ministry of Environment and Water, Bolivia. Administrative Report on Environment and Climate Change, 1st Half 2011, p. 106 <http://snia.mmaya.gob.bo/infoCT/informes/Informe%20Sem1%20DGMACC%202011.pdf> (Spanish only)

⁶ Law No. 1333. Law of the Environment, promulgated April 27, 1992.

⁷ Approved and ratified by Law 1257, July 11, 1991.

⁸ ILO Convention 169, Article 7.

⁹ Approved and ratified by Law 3760, November 7, 2007.

¹⁰ United Nations Declaration on the Rights of Indigenous Peoples, Article 23

to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.”¹¹

Franciscans International is further concerned that the very existence of the Yuracaré, Moxeño, and Chimán tribes of peoples are threatened by such a drastic assault on their territory.

Recommendations:

Franciscans International reiterates its serious concerns about the Construction of the highway through the TIPNIS and calls on:

The Government of Bolivia to:

- Stop construction on Sections I and III of the highway leading to and from TIPNIS.
- Enter into full and binding consultation with the indigenous people holding rights over the TIPNIS territory.
- Carry out independent technical studies of the socio-environmental and cultural impacts of the proposed highway, including studies of the various proposed alternative routes that circumvent TIPNIS, given its status as a protected national park, autonomous indigenous territory and patrimony of all Bolivian peoples.
- Provide free passage and protection from threats and violence for the marchers and others who are exercising their right to demonstrate against the construction of the highway.

The Government of Brazil to:

- Suspend all funding for sections I, II, and III of the highway until the Government of Bolivia meets each of the recommendations stipulated above.

The Special Rapporteur on the situation of human rights of indigenous people to:

- Ask the Government of Bolivia to respect the binding nature of consultation required by Convention 169 of the ILO concerning Indigenous and Tribal Peoples in Independent Countries.
- Ask the Government of Bolivia to set up a commission to initiate independent technical studies of the socio-environmental and cultural impacts of the proposed highway, including studies of the various proposed alternative routes that circumvent TIPNIS. Ensure that the complete results of these studies be made available to the entire population
- Ask the Government of Bolivia to be faithful on a national level to the environmental leadership that it has exercised internationally.

For further information, please contact Ms. Francesca Restifo, International Advocacy Director of Franciscans International, f.restifo@fiop.org.

Thank you in advance for your attention.

Sincerely,



Sr. Denise Boyle, fmdm

Executive Director

¹¹ United Nations Declaration on the Rights of Indigenous Peoples, Article 29.