



A Human Rights Paradox? The Isolated Indigenous Peoples in the Amazon and the Non State Space

By

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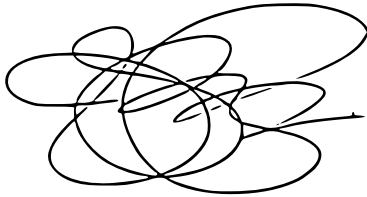
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The work I have submitted is my own effort. I certify that all the material in the dissertation which is not my own work has been identified and acknowledged. No work for a degree, which has been previously conferred to me, is included herein.

Signed:

A handwritten signature consisting of several overlapping, circular and oval loops, rendered in black ink.

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List of Acronyms

CBD	Convention on Biological Diversity
CTI	Indigenous Work Centre
EMRIP	Expert Mechanism on the Rights of Indigenous Peoples
FENAMAD	National Native Federation of the Madre de Dios River and Streams
FUNAI	National Indian Foundation
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IIP	Isolated Indigenous Peoples
ILO C169	ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries
INCRA	National Colonisation and Agrarian Reform Institute
IWGIA	International Work Group for Indigenous Affairs
NGO	Non Governmental Organisations
OHCHR	Office of the United Nations High Commissioner for Human Rights
SPI	Indian Protection Service
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
WRF	World Rainforest Movement

Abstract

The isolated condition in which many indigenous peoples live in the Amazon magnifies their vulnerability to human rights violations and abuses, and challenge the states, as duty bearers, to guarantee and protect fundamental human rights for peoples who do not want to be part of state zones. This dissertation pursues to analyse how the implementation of the existing human rights legal framework and the conventional human rights thinking in the peripheries where the state is absent, such as the Amazon, where these peoples are located, can provoke a seemingly human rights paradox among the rights to self determination and the right to participation, preclude the effective exercise of interrelated human rights, and the inevitable human rights violations this produces.

Keywords

Isolated indigenous peoples; indivisibility of human rights; interrelation of human rights; conventional human rights thinking; human rights paradox; state zones; non state spaces; right to self determination; right to participation; no-contact principle.

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1. Introduction

Today, in the world exists many indigenous peoples who have chosen to live in isolation, consequently they do not have ties with nation states or their societies. States and intergovernmental organisations, have recognised such decisions as an expression of their right to self determination (OHCHR, 2009) and have implemented principles and policies to protect them from contacts of external actors and other legal and illegal activities, such as the tourism projects, oil exploration and drug trafficking.

This research is focused on the isolated indigenous peoples (IIP) located in the Amazon, specifically in the Brazilian and Peruvian border. These countries were selected for this study by taking various factors into consideration. First, both Brazil and Peru have implemented a ‘no-contact principle,’ for over three decades, with the purpose to protect these peoples from human rights violations and respect their decision to remain isolated. Secondly, both countries have largest number of IIP in the Americas, hence the highest numbers of reported initiated contacts by IIP looking for help from the threats coming from external actors to their isolated indigenous communities. Consequently, having a negative impact in the human rights of life, health, self determination and others. Thirdly, the recent initiated contacts by IIP and the recurrent contacts from external actors, has led both countries to make joint efforts to protect these peoples, and redress as possible this human rights violations scenario.

As the numbers of contacts and human rights violations have increased, so has the national and international debate on how this situation should be handled by the states and the challenge it represents to protect IIP from human rights violations and abuses.

Anthropologists, academics, human rights activists, national and international organisations, and others, are part of the debate. Different discourses seem to clash in the debate, which revolves around the right to self determination and the right to participation. On one side, many argue, that the respect to the right to self determination is best way to protect and respect human rights, therefore, disregarding the human right threats, these peoples should not be contacted and remain isolated. On the other hand, many argue, the ‘no-contact principle,’ does not meet the current needs

of IIP and is not the right mechanism anymore to protect them from human rights violations, so it requires contacting IIP in order for them to exercise their right to participation and cultural survival. The debate among both sides revolves in these short lines:

The Discourse for the Respect for the Right to Self Determination

The Inter American Commission on Human Rights (IACHR), has argued that contacting IIP would entail a ‘fundamental challenge to their worldview, to their way of understanding the world around them. When contact occurs, an entire system of beliefs, traditions and assumptions that was taken for granted, and on which they have based their way of life and culture for many hundreds of years, is irreversibly shattered’ (IAHR, 2013: 9).

Along the same lines *Nixiwaka*, a former isolated indigenous man from the *Yawanawá* tribe in the Brazilian Amazon, has detailed the experience when his tribe was first contacted by ‘white people.’ He related that many *Yawanawá* people died from common diseases to which they had no immunity in their systems due to their years of isolation. He pointed out that after contact, ‘white people’ forced their opinions on us; ‘we were made to change the way we prayed, the way we dressed, the languages we spoke and even the way we saw the world. [‘The white people’] criticised our lifestyle and that their way of living was better than ours’ (survivalinternational.org, 2015).

According to these arguments, the right to participation should be understood as tacitly exercised when these peoples choose to remain in isolation. In addition, the Brazilian and Peruvian states consider that the implementation of the ‘no-contact principle’ still is a better way to protect IIP from human rights violation and abuses (COHA, 2008), and their way to respect these peoples’ human right to self determination.

The Discourse for the respect of the Right to Participation

Ipul Powaseu of Papua New Guinea, stated a motto that has come to be used by indigenous peoples around the world when it comes to their right to participation: ‘Nothing about us without us’ (cited from United Nations, 2013). What happens then, when the IIP cannot exercise their right to participation in matters concerning their human rights and interests, because they remain in isolation and the states are respecting this as an exercise of their right of self determination?

Roberto Stavenhagen, former United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, believes if that under the current circumstances IIP are facing, they are exposed to a ‘true cultural genocide.’ He considered that in isolation, ‘it will be difficult for them to survive more than a few more years, since what we call development denies them the right to continue living as they are’ (cited from Cevallos, 2003).

Rob Walker, an anthropologist specializing in the cultural and behavioral ecology of indigenous societies in lowland South America, also insists that ‘controlled contact is the only ethical and humane way forward.’ He believes that, ‘the evidence is clear ... [that IIP] are going extinct while the world watches’ (cited from Rohrlich, 2015). A clear example of extinction of IIP in the Amazon, is the case of the Nagarote peoples located in the Brazilian Amazon, whose community population were more three thousands and by 1979 they were reduced to 18 members (Reel, 2011).

According to these arguments, the denial of the right to participation can prevent the enjoyment of the most fundamental human rights of all - the right to life - without which the protection of other rights, even the right of self determination becomes meaningless.

The foregoing debate shows how can self determination and the right to participation conflict with the IIP isolation condition, even when both rights are interrelated, as the first guarantee indigenous peoples autonomy to self govern themselves as distinct peoples and the other guarantee their engagement in all decisions making that could affect them and their human rights. The approach used to this day, by the Brazilian and Peruvian states and other actors has led me to the identification of a possible ‘*human rights paradox*’: isolated indigenous peoples exercise their human right to participate, by not participating.

Should the states continue to interpret as a decision of IIP to remain isolated as an unspoken exercise of their right of self determination even when the ‘no-contact principle’ seem not be effective nowadays to protect IIP from human rights violations and abuses? Or should they prioritise the right to participation and engage in the decision making process that intends to protect them from human rights violations, such as the right to life?

a. Aim of the study

The analysis of this dissertation will expand upon the debate presented above and will hinge on the discussion of the distinctive elements and characteristics of the current situation of IIP, such as their isolation, their location in the peripheries of the nation states, the interrelatedness of the human rights to self determination and to participation with other human rights, and the threats to other human rights this interrelation is provoking.

It will analyse if there is a contradiction between the right to self determination and right to participation, consequently precluding each other, or if in the contrary these are complementary.

In addition, it will analyse, if the presented '*human rights paradox*,' is related to the implementation of the 'no-contact principle,' by the states and the conventional human rights thinking of the states and the intergovernmental organisations.

And lastly, this research aims to analyse how the implementation of conventional human rights thinking in the spaces where the states are absent, can produce a '*human rights paradox*' and preclude the effective exercise of interrelated human rights.

b. Delimitation of the research

It is relevant to describe the boundaries set for this research, in order for the reader to know what issues will not be discussed or answered.

1. This research is focused only on the IIP located in the Amazon border of Peru and Brazil and the current human rights threats, abuses and violations they face.

2. This research does not discuss the moral or ethical issues on whether IIP should be contacted or not. Rather it will focus on the challenge states face for the human rights implementation in the peripheries of their territorial jurisdiction and how this process is affected by a conventional human rights thinking.

3. This dissertation will be focused on indigenous peoples on a condition of permanent isolation, in attention to the special vulnerable situation they are in, compared to the indigenous peoples who already initiated processes of contacts.

c. Research Questions

This research seeks to answer these main questions:

1. Is there an inherent contradiction between the right to self determination and right to participation for IIP? This question relates to other questions:

1.1 Does the exercise of one preclude the other?

1.2 Is this necessarily a paradox or conflict of human rights?

1.3 Is it necessary to give priority to one human right over the other? If so, who should decide this?

2. Where does this conflict or human rights paradox comes from? And does this conflict or ‘human rights paradox’ provoke human rights violations? Which human rights are being violated?

d. Relevant Terminology

Before continuing to a description of the review of literature and theoretical approach in which this research is based, I would like to briefly clarify and define some terms that are used throughout the analysis.

This research use the term ‘*human rights paradox*’ to refer to an argument or statement that seem contradictory according to their definitions in the existing human rights legal framework but at the same time, it is this legal grounds makes them valid or acceptable. In this research the ‘*human rights paradox*’ identified revolved around two human rights: the right to participation and the right to self determination, and as mentioned before it is presented as this: isolated indigenous peoples exercise their human right to participate, by not participating.

Before it has been pointed out, how these peoples live voluntary in isolated spaces or territories with no ties with the states, provoking an absence from the state’s societies, institutions, census, and

others. This research finds relevant the unique situation that states are in as duty bearers; where they have to respect, protect and fulfil human rights in these spaces, when even it is challenging to do it inside their nation states. Therefore, for a better understanding of the states spaces of presences and absences, I have adopted Scott's concepts of 'state zones,' (1998) and 'non state spaces' (2009). State zones are regions with high-density population that produce a surplus of food and labor which was relatively easily appropriated by the state. Scott defines non state spaces, on the other hand, as the opposite - with settlement, agriculture, social structure that are 'state repelling' (Scott, 2009:178), or in other words difficult for the state's appropriation.

In this research there is differentiation between different approaches to human rights. Following Santos (2009), I use the concept of a 'conventional human rights thinking' to refer to an approach that lacks of, 'theoretical and analytical tools to position itself in relation to movements that do not formulate their struggles in terms of human rights, but on the contrary, formulate them often enough according to principles that contradict the dominant principles of human rights' (2009:3). In other words, the '*human rights paradox*' presented might be a result of the conventional human rights thinking of states, the intergovernmental organisations and its mechanisms. Similarly, the IIP were and still are absent in the formulation of their struggles in terms of human rights; in addition he argues, that the conventional human rights thinking approach does not understand the importance of these 'movements' to 'formulate their struggles in terms of human rights', therefore applies 'the same abstract recipe across the board, hoping that thereby the nature of alternative ideologies or symbolic universes will be reduced to local specificities with no impact on the universal canon of human rights' (2009:3). Can this be the reason why there is a seemingly 'human rights paradox'? Because it is being applied the same existing human rights legal framework in a local specificity?

e. The relevance and contribution of the present research to the human rights field

Historically, indigenous peoples have advocated for the national and international recognition of the interrelated human rights of self determination and participation, both essential to preserving themselves as distinct peoples and their unique cultures.

Today, many states, including Brazil and Peru, are trying to guarantee the fundamental freedoms and human rights of peoples who - by their own choice - are not part of state zones.

This research intends to take a different approach to the existing polarised debate, which is frequently limited to a choice of either 'contact' or 'no contact' of the IIP.

The intended different approach from this research, will allow:

- A better understanding of the obstacles for the respect, protect and fulfilment of human rights in non state spaces.

- A better understanding of how the implementation of the existing human rights legal framework and the conventional human rights thinking might produce 'human rights paradoxes' and how the human rights violation this represents.

- A different approach and analysis of the interrelation of the indigenous peoples human rights of self determination and participation.

f. Review of Literature

There is a small body of literature on IIP, mostly in the fields of anthropology and other social sciences, and in the form of reports from international organisations and monitoring mechanisms. However, there is dearth of literature specifically about the seemingly conflict between the right to self determination and right to participation. This may be partly due to the assumption that there is no human rights conflict, since the isolation is voluntary; therefore, there is a tacit exercise of the right to participation, and the states protect the right to self determination by respecting their isolation. In other words, there has been an application of concepts, thinking and principles to societies that are in resistance to from state zones domination.

However, many books, reports and articles greatly inform my understanding of the indigenous peoples living in isolation in the Amazon.

The International Work Group for Indigenous Affairs (IWGIA) book "Indigenous Peoples in Voluntary isolation and initial contact" (2008), was an initial approach to concepts, nomenclature and principles used for IIP and to the human rights violations and abuses they are often victims inside the Amazon and according to the respective country location.

Three books provided crucial information about the indigenous peoples and IIP in the Brazilian Amazon. *Os índios e a civilização* (The Indians and civilisation) from Ribeiro (1996), a Brazilian anthropologist and former government official with a vast knowledge and literature on indian cultures in the Amazons. In his book he analyses the struggles of Brazilian indigenous peoples after the colonists left the Americas, and the penetration of the Amazons by the extraction companies, the expansion of modern agriculture and military. Ribeiro also analyses how rural populations are distanced not only geographically from indigenous peoples but also distant to their interests. He also makes a clear introduction to the first Brazilian indigenous policies and politics aimed to pacify indians as a way to protect them (see Chapter 2, f).

In *O Último da Tribo: A epopeia para salvar um índio isolado na Amazônia* (The Last of the Tribe: The Epic Quest to Save an Isolated Man in the Amazon) Reel (2010), a journalist from the United States of America and correspondent from the Washington Post in South America focuses on the expeditions of the governmental National Indian Foundation (FUNAI by its acronym in portuguese) government officials to find the last survivor of an isolated indigenous tribe in the Amazon. This book also concentrates on the dangers these peoples are exposed from other actors unrelated to the states, such as landowners and illegal loggers. This book in particular illustrates well how the FUNAI officials carry out their work inside the Amazon, how long their expeditions last, the dangers these government officials face, which went from illness to landowners threats. Reel, also discusses in detail the natural resources that are being extracted from the Amazon and the discrimination IIP are subject from.

Amazônia Indígena (Indigenous Amazon) by Márcio Souza, who studied Social Sciences in the University in São Paulo, focuses on the colonisation process in the Amazon and the impact of the subsequent events for the indigenous peoples. Souza analyses the ‘authoritarian modernisation’, and the forced integration of indigenous peoples to the nation states and how genocide of indigenous peoples was institutionalised.

The insight derived from these three books allowed me to move onto my research with clearer ideas on the peoples that are the centre of study for this research, their history and past and present human rights threats. These books do not give an opinion about which way it is better to handle the current IIP situation, but instead illustrate well the struggles faced by IIP living as ‘neighbours’ to a society that moves everyday closer to theirs.

For insight about the IIP located in Peruvian Amazon and the implementation of the ‘no-contact principle’, the book of Beatriz Huertas Castillo (2002), *Los pueblos indígenas en Aislamiento: Su Lucha por la Sobrevivencia y la Libertad* (The Isolated Indigenous Peoples: Their struggle for survival and freedom), provides a key to understanding the role of the states and the theory and practice of the human rights of these peoples living isolated in Peru. Huertas Castillo, describes precisely more recent events, and the economic and cultural context of IIP in the Peruvian Amazon. She analyses as well the present risks and threats these peoples face in the framework of the current Peruvian legislation and the official established reserves. All of this information is relevant for this dissertation analysis of the joint efforts that both countries, Brazil and Peru are currently carrying out.

In order to understand and address the current threats from a human rights perspective, I referred to the IACHR, Report on Indigenous peoples in voluntary isolation and initial contact in the Americas (2013), that precisely defines IIP and analyses the ‘no-contact principle’ in light of the right to self determination and how the respect of this right do not intervene in the conventional channels of participation.

In 2009, the UN Human Rights Council’s Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) issued The Draft Guidelines on the Protection of Indigenous Peoples in Voluntary Isolation and in Initial Contact of the Amazon basin and El Chaco (hereinafter the EMRIP Guidelines). The EMRIP Guidelines also defines IIP, and sets a number of principles for the development of policies and programmes of actions and provides a contextualisation of the international law that guarantees the protection of these peoples from human rights violations and extinction.

Both the IACHR and EMRIP outline a human rights legal framework for indigenous peoples in isolation and initial contact, and recognise the ‘no-contact principle’ as the human rights principle most suitable for the current contacts situation.

The United Nations Development Group, Guidelines on Indigenous Peoples’ Issues, also provides information for the analysis of the basic human rights and principles to which indigenous peoples are entitled in general. The information gathered from documents as this, allowed to identify and a

better analysis of the ‘set of problems’ that Weissner (2012) identified in his article *Re-Enchanting the World: Indigenous Peoples’ Rights as Essential Parts of a Holistic Human Rights Regime*. I will discuss Weissner’s approach and other authors in the Theoretical Approach section below.

g. Theoretical Approach

One of the many benefits of the diversity of disciplines (anthropology, social sciences, law and others) that the actors belong to in this debate, is that it allows a review of relevant concepts from an interdisciplinary perspective for the research. Weissner’s (2012) article, ‘*Re-Enchanting the World: Indigenous Peoples’ Rights as Essential Parts of a Holistic Human Rights Regime*,’ recognises the particular need of protecting indigenous peoples and points out that the ‘only effective way to safeguard’ their culture is the recognition of individual and collective indigenous peoples human rights (2012:241).

This discussion hinges, on a common ‘set of problems’ (2012:242) indigenous peoples share resulting from the tortured relationship between conqueror and the conquered. He considers this ‘set of problems,’ firstly come from the moment the conqueror took away the land indigenous peoples had freely shared; secondly, the ways of life conquerors imposed; thirdly, by the political autonomy that was curtailed, and fourth, indigenous peoples have often been relegated to a status of extreme poverty, disease and despair. This ‘set of problems,’ that revolve mainly in the right to lands, culture, self determination and health, also applies to the IIP, however deepened by the characteristic of isolation, and the distinctive conditions they live in.

In addition to this ‘set of problems’, Weissner (2012), argues there is a ‘general human rights gap’ in the global instruments, this is reflected in the lack of guarantee to indigenous peoples to maintain control over their lands; again this can be deepened by the difficulties it implies to the states to respect, protect and fulfil human rights in state repelling spaces.

Connecting Weissner's ‘set of problems’ and the ‘general human rights gap’ with Santos (2009) argument that our time is witnessing a ‘final crisis of the hegemony of the socio-cultural paradigm of western modernity and, therefore, it is time of a paradigm transition’ (2009:3), provides a useful perspective to start of analysing seemingly inherent contradictions or paradoxes in human rights.

Santos argues that this 'final crisis' is reflected in an inability of the conventional human rights thinking and practice to address the 'strong questions' (2009:2) raised by our times. Strong questions, he argues, address not only our specific options but the societal and epistemological paradigm that has shaped the current horizon of possibilities within which we make our options. Thus, the weak answers are those that, 'don't challenge the horizon of possibilities, the still dominant paradigm' (2009:3).

Santos distinguishes two kinds of weak answers: weak-strong answers and weak-weak answers. Weak-strong answers are strong enough to see the coming collapse of the dominant paradigm and call for the need to go beyond it, even if they have no clear picture of that will come after. The weak-weak answers take the current paradigm as a given and refuse to admit its historical, political and cultural limits. Santos' argument starts with the point that the answers given by conventional human rights thinking and practice to the strong questions of our time are 'weak-weak answers' (2009:3) and that only through a profound theoretical and political reconstruction could they become 'weak-strong answers' (2009:3). Strong answers, he argues should be so strong that are universally valid.

When people decide in the exercise of their right to self determination, to self isolate themselves, and states try to protect human rights under a conventional human rights thinking, might produce conflict among human rights and seemingly paradoxes, such as the one under analysis. The monitoring mechanisms, human rights organisations, and other actors who are part of this debate, have assumed there is no conflict among rights, and that the current human rights legal framework provides all the answers to position itself in this scenario, rather than re-formulate principles in order to prevent peoples to the edge of extinction.

Self-isolation or self-migration can also create non state spaces. In his book *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*, Scott (2009) argues for a four phased human history: a phase of stateless peoples, the creation of nation states, the subsequent process of dominion over peripheries or non state spaces; and the state's administration in 'virtually the entire globe.' Scott argues that we should avoid considering peoples living in the peripheries - where they are out of reach of the state reach - as 'left-behind'; he argues they have chosen to live outside the state zones.

Throughout Scott's analysis, a set of characteristics of these peripheral populations stands out. These include the modes of subsistence - often hunting, cultivation and fishing - which are intractable to state appropriation; their choice of living within or outside the state; the spaces of political resistance and cultural refusal as an strategy to repel the state zones; and a marginal position in the national narrative. These characteristics, Scott argues, are not archaic traits of people left behind but 'purposefully crafted both to thwart incorporation into nearby states and to minimise the likelihood that state-like concentrations of power will arise among them' (2009:8).

These characteristics match perfectly to the IIP in the Amazon basin, who are also not part of population census or political participation (Possuelo, 2003). The peculiar characteristic of their isolated location, outside of the state reach, challenges the state's responsibility to respect, protect and fulfil of human rights. How relevant is then, the location of the IIP to prevent human rights violations?

h. Methodology

To analyse the seemingly '*human rights paradox*' between the right to self determination and the right to participation for the IIP in Peru and Brazil, the 'no-contact principle' is central for the analysis. This research aims to analyse how the implementation of the existing human rights legal framework and the conventional human rights thinking in non state spaces, provokes an apparent '*human rights paradox*,' a suggested impossibility of co-existence of the human rights of self determination and participation - and the inevitable human rights violations this 'paradox' entails.

Aside from the primary human rights under analysis, this research will discuss various underlying human rights that come into play when analysing the 'no-contact principle,' such as the right to life, right to health, and right to lands, the principle of a free, prior and informed consent, and culture, and the threats, abuses and violations this human rights face. In order for indigenous peoples to exercise their right to self determination and pursue freely their economic, social and cultural development, they have to necessarily exercise their right to participation; this carries corollary duties for the states to protect and guarantee of the right to carry out a free, prior and informed consent that is also connected with land rights, territories and resources (Cultural Survival, 2012).

For obvious reasons, researches concerning the study of indigenous peoples in voluntary isolation, cannot be conducted with their participation. To overcome this methodological difficulty I used three methods: content analysis, interviews and legal research methods.

h.1 Content Analysis

To fully understand the historical and social context of the IIP, relevant sources were collected relevant sources available in the libraries at the University of Gothenburg in Sweden, University of Roehampton and British Library in the United Kingdom, The Arctic University of Norway and the Mário de Andrade Library in Brazil. I mainly reviewed books and articles that go back to 1948, such as the Handbook of South American Indians by Claude Lévi Strauss, to more recent years literature as the *Amazônia Indígena* by Marcio Souza in 2015.

Various sources were obtained from, books, articles, publications from international and national organisations, newspaper articles, government declarations, to pronouncements.

Through content analysis of these documents I sought to address the following questions: Who are the IIP? Where is their location inside the Amazon? What do we know about their culture, religion and languages? What are the histories of contact? Where does the ‘no-contact principle’ comes from? And, what is the background that led the creation of national institutions for the protection of IIP? Answering these questions allowed me to know on who I was making the research on.

The first approach to conduct this method was made without preconceived ideas on the topic. This also, allowed the rise of new questions that came out of data reviewed.

Content analysis allows for an integral review of relevant data, in order to build a background of the IIP and to obtain a sense of the whole of the human rights problem (Tesch, 1990). This initial analysis prepared a more reflecting and easier process to conducting other methods.

h.2 Legal Research Methods

International bodies and national (Brazilian and Peruvian) human rights legal frameworks (National Constitutions and Statutes pertaining the IIP human rights), are the primary instruments that define

and recognise the human rights of self determination and to participation for indigenous peoples. By conducting an evaluative model of legal research, it was possible to analyse how the concepts of the right to self determination and right to participation existing within human rights legal framework, are complementary for state zones, yet they can become contradictory or unable to coexist for societies in non states spaces.

The legal research methods led to an easier process in identifying theories such as Weissner (2012), who argues that the law ought to serve human beings and any effort to design a better law should be in response to human needs and aspirations.

In addition, the right to self determination and right to participation were analysed mainly in light of the Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Cultural and Social Rights (ICECSR), the Articles 3, 5, 18, 27 and 41 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Article 1.1. (b), the Articles 3 and 4 Indigenous and Tribal Peoples Convention, (ILO C169) and article 8, Convention on Biological Diversity (CBD). Conducting legal research methods and the identification of theories were fundamental to answer the research questions.

The instruments listed above also raised questions: Do these international instruments work for IIP? And do they apply to IPP or are these concepts that are imposed to them?

h.3 Interviews

Legal research methods can provide data on what the law prescribes, but what is actually happening on the ground? To understand better the local details and dynamics, the focus was also set to know the positions of various actors.

Initially, I planned to conduct face-to-face interviews with relevant national and international actors, including: Brazilian *sertanistas* (name used for Brazilian explorers and researchers), international anthropologists and other people doing research pertaining to IIP. During the fieldwork, I was able to access contacts (mobiles, emails, Skype) of people who could provide useful information for the research. The interviewees were difficult to carry out face-to-face due to their location; none of them were in the urban area where I was located, São Paulo. Most of them are regularly doing expeditions in the deep Amazon basin, which are often carried out for more than a month and

during which access to internet is almost impossible. After contacting researchers during my fieldwork, the interviews were scheduled to be conducted through Skype, with Brazilian and international anthropologists, and with people who works in an organisations that work specifically in the topic, all of them relevant in the debate, nationally and internationally. Interviews were conducted and recorded in spanish, portuguese and english. The data obtained from these interviews allowed a better understanding of the different positions in the debate and their understanding on how human rights of IIP should be implemented and protected.

h.4 Complementarity of the three methods

These methods were conducted in an interdependent manner. The content analysis, allowed an cohesive background of the problem and an accurate conceptual framework, which prepared me for an easier identification of the legal framework to analyse. The legal research methods, allowed a better reasoning of the legal concepts of the rights to self determination and right to participation and their implementation to IIP and the ‘no-contact principle’. In addition, allowed an identification of more appropriate theories to answer the research questions, and was a first hand guidance in the elaboration of the questionnaires for the interviews. The interviews, were developed throughout the research, before, during and after the analysis and examination of how the existing human rights legal framework can function in this specific social context.

2. Past and Present Context of Isolated Indigenous Peoples in Brazil and Peru

a. Building the concept of isolated indigenous peoples, and the related terminology, without their participation

Creating terms and definitions of isolated indigenous peoples is a challenging task considering it has to be made without their participation. The existing data about the IIP comes from various sources, including, expeditions to the Amazon basin of national and international anthropologists and state's representative researchers, former members of isolated indigenous tribes, sightings by loggers and farmers, and the physical evidence found, such as huts, arrows and others artefacts.

Many terms have been used to refer to IIP: 'savages,' 'nomads,' 'un-contacted,' 'isolated,' 'free peoples,' and 'self-isolated' among others (Huertas Castillo, 2002). When conducting the content analysis, it was evident that this terminology has changed through time in response to new understandings based on research and other the evolutive interpretation of both human rights: to self determination and to participation (see Chapter 3).

Rivas (2006) argues that the term uncontacted was used in a period of time characterised by the presence of state and non-state actors (missionaries, soldiers, ranchers, miners, and others) in IIP territories, whose main purpose was to implement a process of assimilation and bring them back to the nation states. In this matter Huertas Castillo (2002), argues that the term "un-contacted" cannot be used 'strictly speaking' (2002:23) since many of them, or their ancestors, have had contact with people from outside their communities and chose to return to isolation.

In addition to the reasons given above, a terminology as "un-contacted" could also entail ideas of peoples living in the "stone age, unaware of the existence of the outside world" (Shepard, 1996:4) and reinforce stereotypes. In this regard, this research argues two main aspects: One, that such terminology also entails that it is our society or the state zones, who have chosen to ignore IIP as societies, or that is our society who refuses to contact them. Two, that it was necessary to have a

more active terminology (or even neutral) in terms of whose initiative is to stay in isolation and that does not affect our conceptions of the issue or our approach to it, but empowers them.

By time of 2007, the United Nations Environment Programme (UNEP), Report of the Situation of Isolated Indigenous Peoples and the Protection of Traditional Knowledge (2007), argued that various studies and the exercise of collective, indigenous and environmental rights, has produced a shift on the terminology, replacing “un-contacted” with “isolated indigenous peoples” or, “indigenous peoples in voluntary isolation”. This active terminology acknowledges the refusal to contact from IIP, as Zarzar (1996) correctly argues ‘the process leading to isolation is preceded by a choice, an act of will’ (1996:3).

b. Indigenous Peoples living in Voluntary Isolation

The IACHR (2013) has defined indigenous peoples in voluntary isolation as ‘indigenous peoples or segments of indigenous peoples who do not maintain sustained contacts with the majority non-indigenous population, and who generally reject any type of contact with persons not part of their own people. They may also be peoples or segments of peoples previously contacted and who, after intermittent contact with the non-indigenous societies, have returned to a situation of isolation and break the relations of contact that they may have had with those societies’ (2013: 4).

Accordingly, Huertas Castillo (2004) has defined IIP as indigenous peoples ‘or sub-groups thereof - who, according to available historical references, have chosen to distance themselves from national society because of previous traumatic experiences of contact’ (2004: 20). Furthermore, she argues that isolation should be seen as a decision of peoples to refuse to establish permanent relations with other societies ‘as a way of ensuring their physical and cultural survival’ (2004:21).

Similarly, the Brazilian State, considers that the term isolated indigenous peoples, refers specifically to indigenous groups with no permanent relations with national societies or with infrequent interaction, either with non-indigenous societies, or with other indigenous peoples (Funai.gov.br, n.d.).

All the definitions above share many elements, such as the voluntary isolation and refusal for contact. The biggest common element, have been the lack of participation of IIP in the process of building these definitions. This does not mean that they are irrelevant or invalid concepts, but it has

to be clear that they do not speak for IIP. However, it is the states option to protect IIP human rights in national and international levels. These definitions or concepts are going to be built and evolve until IIP themselves consider in a possible future perhaps to participate and build a concept themselves that fit their realities and to which they can feel identified with.

c. Historical background of Isolated Indigenous Peoples in Brazil and Peru

In the 16th century, expeditions of european explorers headed out to the Amazon with plans to conquer and exploit unexplored lands and in search of natural resources. The history of European contact with the Amazon is a violent process of domination, the plundering of natural resources, dispossession of lands, and the slavery and oppression of indigenous peoples.

In the 19th century, after the Spanish and Portuguese left the American Continent, a process of ‘internal colonialism’ (Scott, 2009:3) began with the building of nation states, characterised by the subjugation of indigenous people - a process characterised by violence, epidemics, and the dispossession of lands.

This adverse historic environment has caused some societies of indigenous peoples to choose a different path in order to survive, resist assimilation, and develop as distinct societies: isolation, and have remained deep in the Amazon for over 500 years away from the nation states. However, this choice of isolation has not protected them from accidental contacts from non state actors.

Today, many factors increase the risk of extinction, as Walker suggested before (see Introduction), including globalisation, the modernisation of national infrastructure, resource exploitation by transnational companies and by local entrepreneurs, drug trafficking and religious organisations penetrating IIP territories - all of these represent human rights threats to IIP of the Amazon.

c.2 Recent contacts of Isolated Indigenous Peoples in Brazil

In the 1970’s, the President of Brazil and General Emílio Garrastazu Médici, launched a project encouraging people to migrate to the Amazon area, through the National Colonisation and Agrarian Reform Institute (known in portuguese by the acronym INCRA). The official propaganda

announced: “lands with no men for men without lands” (Rocha Morbach, n.d.). After establishing some indigenous reserves, it was presumed that the rest of the lands were free of indigenous presence. Lands were auctioned for up to two thousands hectares per person and by the 1980’s more than seventy-thousand persons had migrated to the Amazon basin, when the census before was not more than one hundred ten thousand (Reel, 2010).

Years later the landowners discovered signs of indigenous peoples living in their lands. Consequently, landowners hired killers to get rid their properties of indigenous peoples, raising a wave of violence, that many times had bloody results (Amnesty International, 1998). One member of a group formerly isolated indigenous peoples, described their encounter with ‘white men’: ‘I am alone now, without brothers [...] the white men killed all my friends [...] they killed them with a gun, not with bows and arrows. I was left alone, that is why I fear those people that live on the other side. That is why I ran away from them’ (Reel, 2010: 111).

These violent events made the Brazilian authorities to issue a judgment for the offence of genocide against a landowner for the violent crimes committed against an indigenous tribe (Reel, 2010). However, the UN representative of Brazil, claimed the charges could not be defined as genocide since the parties involved did not eliminate the indigenous peoples as an ethnic or cultural group and the crime was committed in order to take possession of the land of these peoples (UN, 1969). In addition to the violence and the invasion of their lands, contact caused an epidemiological crisis for IIP. Illnesses that are common to our societies can represent a deadly threat to these peoples, and unplanned contacts had exposed them to deadly epidemics, due to the differences in our immunological systems.

As a response to the violence these peoples were being victims and the deaths of members in their communities because of the epidemics, triggered them to respond similarly. In the 1980s indigenous from the *Urue-Eu-Wau-Wau* tribe, attacked a FUNAI expedition with bows and arrows with poisonous arrowheads (Cowell, 1990).

c.2 Recent contacts of Isolated Indigenous Peoples in Peru

The history of the IIP living in the Peruvian Amazon, like that of peoples living in the Brazilian Amazon, is characterised by death, abuses, epidemics and the invasion of ancestral lands.

In the late 19th and early 20th centuries, the ‘rubber boom’ hit the region of the Madre de Dios basin, increasing the demand and higher prices for rubber, which led ‘*caucheros*’ (name used for rubber workers or traders) and other outsiders to come in increasing numbers to the area, forcing IIP to abandon their ancestral lands, in order to avoid contact with the outsiders (Shepard, 1999). As the ‘*caucheros*’ opened roads and establish camps inside IIP territories, increased the massacres of indigenous peoples to raid these lands and enslaved the ones alive. As an escape and solution for the violence they were victims, IIP moved to inaccessible lands, away from nation states and its societies.

Eventually, the ‘*caucheros*’ and the IIP would meet again, followed by attacks on both sides, leaving deadly results. It was the beginning of the establishment of a system called ‘*correrias*’, which meant hunting indigenous peoples to sell them to the ‘*caucheros*’ as cheap labour. Testimonies from this period of time recounted how the slave trade was carried out, ‘when you buy[ed] them they [were] your own property...’ (Morrison, 1985, cited by Shelton et al., 2013:58).

In the 1960s, the IIP communities were being attacked with explosives by employees of the International Petroleum Company and its subcontractors who were exploring ancestral territories for oil (Shelton et al., 2013), making it hard for the state authorities to argue lack knowledge of such actions, since this companies were exploring for oil with the permission of the state itself. Nonetheless, the lack of interest from the state to protect and the impossibility of the IIP to denunciate, left these human rights violations unpunished and sometimes in anonymity.

Events in the 1970s onwards, were a series of forced contacts by missionaries (Shelton et al., 2013) and the exploitation of natural resources, such as wood and gold. The spread of diseases and epidemics were also a threat to peoples living in the Peruvian region; in the 1980s almost 50 percent of the *Nahua* peoples died from illnesses after contact with workers from the Shell company who were exploring for oil and gas (Cultural Survival, 2003).

f. Historical background of the implementation of the ‘No-Contact Principle’ in Brazil and Peru

In 1910 it was created the Indian Protection Service (SPI) that in the 1967 became the FUNAI. Formerly FUNAI mission and policy was to seek IIP and bring them to the state zones, with the purpose of attracting, pacifying and protecting these peoples, as they believed this was essential for their protection (IWGIA, 2013). Back then this missions of contacts were carried out by groups of explorers called Fronts of Contact composed by *sertanistas*.

The 1970s, was a decade in which many infrastructure projects and mineral exploitation were developed in IIP territories, and as a consequence many indigenous communities population was reduced to only a few members. This caused concerns among the *sertanistas*, on how the current policy of integrating IIP was having negative impact for their indigenous communities. Therefore, intensive meetings were organised, with the participation of indigenists, anthropologists, missionaries, lawyers and representatives of the Union of Indigenous Nations (IWGIA, 2013). As a result, FUNAI, had a shift on their approach to IIP, for a ‘contact policy to an ethno - protection policy’ (Possuelo, 2003), which aimed to protect these peoples and their environment, later on called, ‘no-contact principle.’

Among the conclusions from these meetings, the *sertanistas* considered that the experience of contact was damaging IIP whole social and cultural structures. Most importantly they acknowledge the need to reconsider the mechanisms to protect these peoples and argued that contact must only occur when there is certainty that the IIP ‘can no longer survive the encroaching ranches, the invasions of their territory, etc. Only when uncontrollable constraints are occurring will the act of contact be an essential measure of protection’ (Relatório do I Encontro de Sertanistas, 1987).

Nowadays, unplanned contacts to IIP have increased, which seem that the current protection policies and other laws are failing to protect them from illegal natural resources exploitation, intervention from religious missions, and the construction of roads, hydroelectric plants and others. Is it that time again to review, reconsider, to shift, or evolve conventional human rights thinking and policies in order to protect IIP?

g. What do we know about the isolated indigenous peoples?

g.1 Location

In 2015, Fraser (2015), reported that Brazil has the largest number of IIP, followed by Peru, Bolivia, Ecuador, Colombia, Venezuela, and the Chaco region of Paraguay. Also pointed out that the *Rio do Javari* that borders Brazil and Peru has the largest concentration of IIP in the world, illegal logging, illegal fishing of ornamental fish and drug traffickers shipping cocaine from Peru to Brazil along the rivers (Fraser, 2015).

The Indigenous Work Centre (CTI by its acronyms in portuguese), who works through programmes of transferring resources and technical advice directly with the *Guarani, Timbira, Terena, Javari* Valley indigenous peoples, reported a population of 33 million people in the Amazon, including 385 indigenous peoples tribes, some of them in a state of isolation. Some statistics points out approximately 200 isolated indigenous groups in the Americas (OHCHR, 2012). In addition, there are 610 protected natural areas and 2,344 indigenous territories of non isolated and isolated indigenous peoples, who occupy 45% of the Amazon area (trabalhoindigenista.org.br, 2015). It is worth highlighting that the indigenous Brazilian population is about 2% of the total population, yet they live in 12% of the Brazilian territory (Stocks, 2005). To many this might seem enough land due to the few indigenous peoples population who have survived through history, however, lands to indigenous peoples have a different meaning as to non-indigenous peoples.

My research argues that lands to indigenous peoples cannot be measured in quantity, but in the spiritual, physical, and cultural connection the lands have with their peoples. For instance, for many indigenous peoples the burial of their ancestors are held in ceremonies inside their lands, making the ‘community depends on the goodwill and help of ancestors through dreams and spiritual paths, and the ancestors need to be honoured through appropriate ceremonies and maintenance of their burial places’ (Kipuri, 2009:62). I argue that such unique practices between these peoples and their lands, creates a relationship that cannot be measured on percentage of physical lands but instead in their own specific cultural values.

In Peru, the *Madre de Dios* basin has a population of approximately 90,000, of which 10% are indigenous peoples. Huertas Castillo (2013), argues that this low percentage is the result of the demographic collapse suffered by indigenous peoples during the rubber extractions in the zone.

In the 1970’s, the ‘rubber boom’ and the agrarian reform produced an intensive settlement of the Peruvian Amazon and also established the legal category of ‘Native Community,’ that allowed ‘breaking the peoples up into local units and consequently fragmenting their traditional territories,

and turning the 'freed up' spaces into areas available to the State and, consequently, open to settlement and private investment projects' (Huertas Castillo, 2002: 38). The territorial reorganisation, imposed the distribution of lands to non indigenous peoples population, facilitating colonisation of indigenous peoples, instead of recognising their ancestral territories.

g.2 The Isolated Indigenous Peoples found Brazil and Peru

In the Amazonian border of Brazil there are approximately 40 IIP, among them there are the *korubo*, *hi-merima*, *massaco*, *zó'e*, *pipiticua*, *awá*, *caru*, *araribóia*, *kampa*, *menkragnoti*, *machineri*, *jaminawa*, *maku-nadeb*, *akurio*, *jandiatuba*, *piriuititi*, *jamamadi*, the families *kayapó pu ró*, *tupi* and *waiapi-ianeana* peoples (UNEP, 2007).

In Peru, which is the South American country with the second largest population of IIP, has approximately between 20 to 30 peoples, among them are: the *mayoruna*, *remo*, *kapanawa*, *iscobaquebu* or *isconahua*, *cacataibos* and a diversity of the clans *yora* or *yaminahua* like the *nahua*, *murunahua*, *iconahua*, *mastanahua*, *chitonahua* and others; among other 'linguistic groups' (2007:23) there is the *arawak*, *mashco piro*, the families *matsiguenka*, *nanti*, *asháninka* and *caquinte*; also exists the *huaorani* peoples called *abijira* or *záparo* (UNEP, 2007).

Ribeiro (1971), argues that indigenous peoples living in isolation in the Amazons, represent today a segment of a previous indigenous communities whose initial cultures went through changes due to the advance of aggressive cultures, therefore 'none of them retain their original features' (1971:58).

g.3 The recent contacts in the Amazon that borders Brazil and Peru

More recently, in 2015, Science Magazine reported that between 1987 and 2013, in both Brazil and Peru, the FUNAI registered five contacts initiated by isolated indigenous communities. These numbers have increased dramatically; between 2013 to 2015, three groups initiated contact: the *Xinane*, the *Korubo*, and the *Awá Guajá* (Pringle, 2015).

One of the cases with most media attention occurred in June 2014, when members of the Chitonawa tribe emerged from the Amazon rainforest and began trying to communicate with a settled indigenous group, the Ashaninka, who lived across a river in the village of Simpatia (a protected

region in Brazil). The Chitonawa claimed that they been ‘constantly persecuted and killed by whites,’ such as drug traffickers and illegal loggers on their territory (Rohrlich, J., 2015).

After the increase of contact started happening, some specialists have expressed their fear that a ‘decade of contacts’ (cited from Fenton, 2015) started and the new challenges these represents for the states involved.

The currently implemented of the ‘no-contact principle,’ has allowed the protection of the right to self determination and the restriction of other human rights, such as the right to participation. Nowadays, the situation has deteriorated dramatically, as other fundamental human rights, such as the right to life are in endangered. In addition, the increase of initiated contacts by IIP might suggest that efforts must be made by the states, with perhaps a different approach.

g.4 The ‘No-Contact Principle’ implementation for Isolated Indigenous Peoples

The IACHR, argues that isolation, besides being a choice, it is a result from ‘exclusion and social marginalisation’ (2013:11). My research argues, that this exclusion might have been provoked by the way the creation of the nation states were built; with imported ideas from the states who were part of the conquest, that suggested citizens to be above others, in most cases above indigenous peoples. To this day this historic hierarchy of indigenous and non indigenous is one of the causes for discrimination throughout the Continent.

Moreover, from exclusion and marginalisation, these peoples have shown rejection to contact with external societies. What some argue it should be seen as a completely voluntary process (Dandler et al., 1998).

In this voluntary process, Scott (2009) reflects on how the founders of new state often appropriated lands from previous occupants and how the population of early states ‘was unfree,’ ‘subjects under duress’ and in ‘condition of servitude’ (2009:6), consequently they should either incorporate or chose move away.

It is this same logic of choice, that have led the Brazilian and Peruvian governments to adopt a ‘no-contact principle.’ The former United Nations Special Rapporteur on the Rights of Indigenous

Peoples, James Anaya, has argued that this principle must be respected, which implies the implementation of a public policy that protects their ancestral territories from extractive companies, illegal loggers and other unauthorised settlements in the areas (Unsr.jamesanaya.org, 2013).

The IACHR (2013), has linked this principle, with the right to self-determination. They consider that the ‘no-contact principle’ is the expression of the right of indigenous peoples in voluntary isolation to self determination.

Huertas Castillo, considers that the implementation of the ‘no-contact principle’ is an ‘act of justice and a form of historical compensation’ and ‘a demonstration of respect for their rights to identity and cultural diversity, and, finally, an opportunity for Peru to demonstrate that it is a genuine democracy and a truly multi-cultural country’ (IWGIA, 2013: 56). On the other hand, governments consider the implementation of the ‘no-contact principle,’ is to ensure the survival of indigenous peoples and protect them from health risks.

A ‘no-contact principle’ does not justify ignorance from the states of the human rights situation of these peoples. According to the EMRIP Guidelines (2009), the implementation of this principle allows indirect monitoring of the situation of these peoples, which could be aerial or satellite photography, among others, as long contact is always avoided.

3. The International Human Rights Legal Framework and the Isolated Indigenous Peoples

The existing human rights legal framework was developed and envisioned to protect a set of fundamental human rights that would allow societies to be more democratic, peaceful and just. Today, we have many instruments that recognise and guarantee human rights that should be considered as universal, indivisible, interdependent and interrelated (UN,1993), although there are many discourses around the validity of these principles in the different social contexts.

Today, indigenous peoples can rely on an international human rights legal framework, that goes from the UNDRIP to the ILO C169. These instruments are a reflection firstly, of the legal recognition of their unique cultures, their history, identity, their special relationship with nature and their ancestral lands. Second, the acknowledgment from the states to address the historical human rights violations indigenous peoples have been victims, normally to detriment their right to self determination and cultural survival. Thirdly, and most importantly the high achievements of indigenous peoples as relevant actors and active engagement in international human rights dialogues with the accompaniment of the non-governmental organisations advocacy.

However, before many of these instruments were developed or even when they were not ratified by many states, human rights judicial institutions had an evolutive interpretation of the existing general human rights conventions and treaties. Thus meaning that, the no specific reference to the guarantee of indigenous peoples rights according to their needs, required an interpretation of general application to protect indigenous peoples unique human rights.

As a result, to this day we have a vast jurisprudence in indigenous peoples rights, that have been fundamental for the creation of indigenous peoples human rights standards and the future recognition of indigenous peoples human rights. The best example of this is the Mayagna (Sumo) Awas Tingni case; the indigenous peoples Awas Tingni, presented a complaint against the state of Nicaragua, for failing to demarcate their ancestral lands and natural resource and to guarantee access to an effective remedy and prevent concession of their lands to transnational companies. The Inter American Court of Human Rights (IACHR), made an evolutionary interpretation of the Article 21 regarding the right to private property, of the American Convention on Human Rights. This

interpretation aimed to allow a broader definition, taking into account indigenous peoples collective right to property.

In addition, there are also specialised mechanisms that in the exercise of their attributions have issued thematic reports, guidelines and studies, such as the EMRIP Guidelines (2009), the Report of the Department of Economic and Social Affairs of the United Nations Secretariat, State of the World's Indigenous Peoples (2009), the IACHR, Report on the Indigenous peoples in voluntary isolation and initial contact in the Americas: Recommendations for the full respect of their human rights (2013), and others.

a. The Human Rights Threats for Isolated Indigenous Peoples

It is important to clarify that neither my research on any other in the IIP issue will precisely reflect or precisely identify the human rights threats or fully understand its real impact or consequences of the human rights violations and abuses inside their communities. Due to the isolation they have chosen for themselves.

This section discusses the human rights threats identified during my research of these questions within the framework of the interrelation between the human rights to self determination and participation.

Firstly, it will be identified the human rights being threatened and by whom, followed by the relevant international or regional instruments that guarantee these human rights. Secondly, interpret these rights according to the IIP reality and characteristics (location in non state spaces and their refusal to become part of state zones). This analysis is relevant in order to understand the human rights violations, abuses and the obligations states have under the human rights regional and international legal framework and to which extent they are able to protect IIP from these human rights violations.

b. The threat to the Right to Lands, Territories and Resources

Article 13 of the ILO Convention establishes the term 'lands' includes the concept of territories, which covers the total environment of the areas which the indigenous peoples occupy or use; due to the historical continuity these peoples have before and after the colonial societies. Article 14, recognises the interrelation of indigenous peoples cultures and spiritual values with these lands or

territories, to which they have the rights of ownership and possession of the traditionally occupied lands or that have traditionally access for their subsistence and traditional activities.

In order for states to ensure an effective fulfilment of the above, they should take all the necessary measures to identify these lands and carry out the procedures for titles of ownership.

As mentioned before, there have been sightings of IIP location and their crafts by satellite imagery, and by non indigenous people living in the Amazon, yet little is known about their mobility through the Amazon and their exact number in these zones. It is believed that IIP have nomadic or semi-nomadic characteristics, due to the natural resources they look for subsistence that change throughout the seasons of the year and around the Amazon. This modalities of possessing ancestral lands, the IACHR considers should be respected as part of their rights over their territories and the right to self-determination (2013:48).

In addition to the challenge the state faces in tracking nomadic peoples, identifying their lands and taking care not to come too close in order to prevent epidemics, it is a challenge to carry out procedures for titles of ownership, since until now, this procedure has been implemented for indigenous peoples inside state zones. Although it may be a challenge, carrying out the procedures for titles of ownership will allow not only effective enjoyment of their right to lands, territories and resources - but also survival for IIP - especially considering the highly rich environments in which they collect wild fruits, hunt and fish.

In attention to this the EMRIP Guidelines, argues that there are two types of land should be given special protection for the benefit of indigenous peoples in isolation and in initial contact:

‘(a) Lands and territories of indigenous peoples in isolation and in initial contact: those that enable such peoples to maintain their ways of life and in which they have historically lived or travelled. Outsiders should be strictly forbidden to enter or to carry out any type of activity in these lands;

(b) Buffer zones: lands surrounding the lands of indigenous peoples in isolation and in initial contact. In order to prevent accidental contacts, specific protective measures should be taken to reduce their likelihood. Access to these zones should be restricted, economic activities should provide for mechanisms and physical barriers to avoid contact and activities within such zones should be monitored.’ (2009:15)

Throughout my research it was evident that lands have played a central role for IIP survival and even mobility throughout the Amazon. The biggest present threats include the states' interest to develop roads, dams, and other large projects; the projects of transnational companies; and other legal and illegal activities [such as drug trafficking and illegal logging] inside IIP lands.

b.1 Situation of the Isolated Indigenous Peoples Land Rights in Brazil

According to the Brazilian National Law 6,001 the “indigenous lands,” are those occupied or inhabited by indigenous or forest dwelling communities, therefore it is forbidden ‘for any person from outside the tribal groups or indigenous communities to hunt, fish, or collect fruits, or to engage in farming or stock raising, or extractive activity’ (Law No. 6,001, 1973). FUNAI has the legal responsibility to ‘control the entry and transit of third persons in areas in which the presence of isolated indigenous persons is found, as well as taking the measures necessary to protect the indigenous population’ (IWGIA, 2012:56).

In 1996, an administrative procedure was established for the demarcation of indigenous lands, allowing the demarcation of more than 2,400,000 hectares exclusively for IIP, such as the, *Hi-Merimã*, *Jacareuba/Katawixi*, *Omerê* river, *Massaco*, *Tanaru*, *Riozinho do Alto Envira (Xinane)*, *Alto Tarauacá* and *Kawahiva do Rio Pardo* (IACHR, 2013).

In 2013, the President of FUNAI resigned and since then no one has been officially named for the position. This has been the longest period this foundation has been under interim control, since 1967. After the impeachment of President Rousseff and the recession, campaigners worry business interests will accelerate the displacement of these peoples (Arsenault, 2016).

b.2 Situation of the Isolated Indigenous Peoples Land Rights in Peru

According to the response of the Peruvian State on the Questionnaire for Consultation on Indigenous Peoples in Voluntary Isolation and Initial Contact, received by the IACHR, there are five territorial areas protected to benefit indigenous peoples in isolation: One, territorial reserve in favor of the *Kugapakori*, *Nahua*, *Nanti*, and other ethnic groups in voluntary isolation and initial contact, a second, territorial reserve in favor of the *Murunahua* ethnic group, a third territorial reserve in favor of the *Mascho Piro* ethnic group, a fourth territorial reserve in favor of the

Isconahua ethnic group, and a last territorial reserve in favor of the IIP situated in the department of *Madre de Dios*.

With regard to the foregoing, the IACHR has found there is not uniformity in the restrictions on entry all these territorial reserves (2013:36) and some of them do not include public necessity exception and others does not establish explicitly the prohibition on entry.

The Multi-sectoral Commission for the Protection of Indigenous Peoples in Voluntary Isolation and Initial Contact, is the decision-making body composed of representatives of government and civil society. This Commission that works under the Ministry of Culture, has been responsible for the analysis of the territorial recognition for these peoples in Peru (Trabalho Indigenista, 2016).

However, the Ministry of Culture has argued that, ‘there is no way to cover this amount of territory on our budget,’ considering they rely with an annual budget of only \$1 million, and 17-member staff (Lawler, 2015).

When the states are not effective in complying duty to respect, protect and fulfil human rights, other legal and illegal non state actors, such as transnational companies, drug trafficking organisations and other businesses, take advantage of this adverse scenario and use IIP ancestral lands.

b. 3 Non State Actors and Illegal activities inside Isolated Indigenous Peoples Lands

With globalisation and the rise of new international actors, the assumption that the state to be solely accountable for human rights violations and the scope human rights law has been questioned. Indigenous peoples are no strangers to extractive industries, to transnational companies who often sign agreements with states to explore their ancestral lands, and to the drug trafficking organisations who use indigenous peoples ancestral lands and resources to store and produce drugs.

The EMRIP Guidelines, points out that these outsider actors on IIP lands, and the implementation of the ‘no-contact principle,’ by the states, ‘should not result in the expulsion of ... indigenous peoples from their land; instead, measures should be taken to encourage such peoples to maintain peaceful relations with peoples living in isolation and to respect their rights’ (2009:15).

In Peru, for instance, in March 2008, the legislative decree No. 994 was published, which promotes ‘private investment in irrigation projects as part of a plan to expand the agricultural frontier,’ this allows the exploitation of IIP lands for agricultural purposes. That same year, two other legislative decrees No. 1064 and No. 1089, were published ‘promoting individual land titling and investment in the Amazon without guaranteeing the land rights of [...] isolated peoples’ (Peruvian Congress, 2008 cited from IWGIA, 2013).

Based on my research, I argue that the decrees noted above are ‘*legalised threats*’ to IIP territories, which indicate the states’ lack of awareness of the human rights of IIP, and also explains the human rights crisis they are facing. Nonetheless, such violations are possible to identify and redress. In contrast, the illegal loggers looking for high-quality wood, and drug traffickers taking advantage of the lack of state presence and the isolation of these spaces, are much more difficult track and stop even inside state zones.

According to Watts (2014), Peru has overtaken Colombia as the world's biggest producer of coca leaf and Brazil is the second biggest market for drugs after the United States of America. Huertas Castillo, argues that authorities have not established mechanisms to protect IIP territories and they ‘are not interested in protecting the tribes. On the contrary, their existence is a problem for investment and the exploitation of existing resources in their areas’ (cited from Watts, 2014).

Stephen Corry, Survival International’s Director, argues that the lack of attention from the authorities in this drug trafficking issue, increase the risk of disease, violence and genocide (cited from Watts, 2014).

In addition, the World Rainforest Movement (2009), argues that the estimates suggest that 90% of timber extracted in the Peruvian Amazon is illegal. Even when the states have made efforts in declaring some IIP territories as Reserves, this has not stopped illegal loggers to open logging roads deep inside the *Murunahua* Reserve (WRM, 2009).

The WRM, also reported conflict between the indigenous communities and the loggers. In May 2005, in *Madre de Dios*, WRM reported that two loggers were killed by arrows as they logged on the upper *Rio Piedra*. On the other hand there were no reports of indigenous people injured or killed

from the confrontation (Wrm.org.uy, 2005), this can be due to the isolated conditions of these peoples, which does not allow them to report such human rights abuses.

Tourism is also a threat to IIP territories; reports from the Representatives of the National Native Federation of the *Madre de Dios* River and Streams (FENAMAD by its acronyms in Portuguese), denounces illegal tourist guides were taken inside areas inhabited by IIP in the Amazon border between Brazil and Peru (Meio Ambiente, 2014).

It has been well-established in national and international law that the ancestral lands of IIP are fundamental to their livelihood and survival, and that they thus have a fundamental right to these lands. The penetration, exploitation and dispossession of the ancestral lands of IIP, also threatens their right to health, consequently their right to life and cultural survival.

Throughout my research, I have come to identify key initiatives that states could develop for the protection of the IIP human rights and cultural survival. Respecting to the right to lands, territories and resources, there is an urgent necessity for land demarcation. In addition it requires the development of mechanisms for the protection of these lands, from the penetration of external actors. This initiative does not only protect their lands but also other interrelated human rights, as the right to health, which will be described below.

c. Right to health

Many instruments such as the Universal Declaration of Human rights, the ICESCR and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural “Protocol of San Salvador,” (see in particular Articles 25, 12 and 10 respectively) recognises the right to the enjoyment of the highest attainable standard of health.

The deadly repercussions of the colonisation process on indigenous peoples were outlined above; threats to their health are ongoing. Currently IIP are victims of many epidemics in their communities as a consequence of unplanned contacts, including common ‘colds, pertussis, hepatitis, malaria, tuberculosis, influenza, pneumonia, measles, mumps, chicken pox, polio, and other diarrhoea and gastrointestinal diseases’ (IWGIA, 2003 cited from IACHR 2013). Living in isolation through all these years, has raised the risks of illnesses and diseases, since they have not

developed immunological defences. Thus, diseases that are normal to our societies, can become deadly epidemics in their communities.

States are struggling to guarantee the right to health, but their absence in these zones and the implementation of the 'no-contact principle' in order to protect their right to self determination, increase the chances of unplanned contacts and consequently exposing them to disease and illnesses. As it is difficult to prevent the entrance of illegal loggers, drug traffickers, religious missionaries and external actors to access these lands.

The EMRIP Guidelines, suggest a hierarchy of human rights, in which the implementation of the 'no-contact principle' and 'their decision to remain isolated must take precedence over any State attempt to protect their health' (2009:16). If IIP have the same human rights as indigenous peoples inside state zones, why is it the right to self determination having precedence over the right to life for one peoples and not to the other? Perhaps this are the strong human rights questions, Souza (2009) argues characterise our times, where the weak-weak answer provided would be, that the existing human rights framework defines already that isolation is the highest expression of the exercise of the right to self determination. Even when the conventional human rights thinking recognise the most fundamental human right of all as the right to life and survival.

This hierarchy of human rights, between self determination and right to life, has been the core of the IIP debate. Kim Hill, an anthropologist Professor from the University of Arizona, who has over 40 years of experience on working with isolated indigenous peoples; argues that (interview, 02/23/16) that if the 'no-contact principle' keeps on being imposed for future generations, IIP will soon be extinct, and most importantly none of these peoples living in isolation would want that for a future. Hill (2016), also argued that the implementation of the 'no-principle contact' does not guarantee their protection, which he consider more of an illusion, due to the resources the states are willing to spend to protect their territories, the lack of control inside non state spaces that does not allow them to protect IIP from accidental contacts and drug traffickers activities; which states cannot even be track inside state zones.

In addition, Possuelo (2014), argues that IIP choice of isolation is a means of preservation and that they do not live in isolation because they want to, but is because they know that, 'every time white people come near [IIP], people die' (The Globe and Mail, 2014).

In this debate the words ethnocide and extinction are commonly used to refer of what the future holds for these peoples. Although to some, the use of such words can seem to be exaggerated, considering the fact that these groups are physically or culturally disappearing, they seem appropriate.

The denial of the enjoyment of the unique relationship of these peoples with their lands and environment, the lack of demarcation of lands, have affected their right to health historically. As a consequence this impacts on their cultural survival and their right to life.

My research cannot prove that the difficulties for demarcation of these peoples lands, are due to their isolation or nomadic characteristics. But it can show through the evidence previously discussed, the consequences of the penetration of external actors to IIP lands, has on their fundamental right to life and right to health.

In line with this thinking, it is relevant to analyse how the protection of the right to self determination, through the implementation of the ‘no-contact principle’ is interrelated with the exercise with other human rights.

d. The Right to Self Determination

Formerly, self determination was considered a ‘principle’ and not a ‘right,’ however in 1945 with the creation of the United Nations, the ‘principle of peoples’ self-determination evolved into a ‘right’ under international law and jus cogens (IWGIA, 1999). The right to self determination is guaranteed in several human rights instruments, such as the Charter of the United Nations, the ICCPR, ICESCR, the ILO C169, and others.

The UNDRIP (2006), acknowledges in Article 3, the right to self-determination of all peoples, which allows them to determine their political status and freely pursue their economic, social and cultural development. Article 4, expands this right to the autonomy or self-government in matters relating to their internal and local affairs, of indigenous peoples.

The Working Group on Indigenous Populations, of the OHCHR, has maintained that self determination is the most important right any standards could recognise, for mainly two reasons,

first, this right is essential for ‘their survival and development as peoples’ and secondly, it is argued that, ‘this right is inherent sovereignty that cannot be denied’ (cited from Iorns, 1993).

In addition, self determination allows ‘an extent of self-governance’ (Ions,1993:225), in order for indigenous peoples to determine their future. However, the right to self determination of indigenous peoples has commonly been set out or understood as to be implemented for peoples and not territories.

The above arguments provide the understanding of the scope of the right to self determination of indigenous peoples, which enables them to seek autonomy and self governance as distinct peoples. History and the present human rights situation of the IIP in the Brazilian and Peruvian Amazon border, characterised by systematic injustice, exclusion, poverty, slavery and illness. Consequently these peoples have achieved a level of autonomy and self governance, not from the territories, but from the state zones and their institutions, isolating themselves in non state spaces.

According to my analysis, given the historic human rights abuses, the clear refusal for IIP to join the state zones, and their insistence on remaining in spaces away from state zones and other external actors; isolation can be a *mode of exercising self determination*.

The implementation of the ‘no-contact principle,’ was formulated under the theoretical and dominant conceptions basis of the conventional human rights thinking. This I consider to be coherent to the main goal of this principle: the protection of the IIP right to self determination. However, the foregoing discussion, evidence that self determination is essential for IIP their survival and development. In addition, the protection for the right to self determination of IIP not only implies respect for their mode of exercising self determination, but also to satisfy other human needs, most importantly human security (economic, health, environmental, and cultural integrity) and welfare (Washington 1999, cited from Van Walt, 1999).

On logical grounds of the existing human rights legal framework and the conventional human rights thinking and understanding, it is evident that the implementation of the ‘no-contact principle,’ neglects other human rights, such as the right to participation.

d.1 The Right to Self Determination and the Right to Participation

Earlier in this thesis there was identified an apparent '*human rights paradox*' that revolved around two human rights: the right to self determination and the right to participation. Van Walt, (1999), argues the right to self-determination is a right of choice and a right of participation, that can involve a choice by a people to be ruled by the leaders of its own community, whether within the framework of an existing state or outside that framework. This argument suggests a possible indivisibility among both rights. This much debated term of 'indivisibility' have been used before in the human rights discourse, to reference the essential complementary of human rights. Suggesting that instead of clashing or exhibit contradiction, human rights have a common existence, enhance and reinforce each other through a process of 'synergy' and symbiosis (Oloka-Onyango, 2011).

Applying the term 'indivisibility' to the human rights of indigenous peoples who live outside of state zones, such as the IIP on the Peruvian and Brazilian border, is more complex. For instance, the recognition and guarantee of the right to self determination makes it impossible the exercise of the right to participation or to carry out a process of consultation. A first approach to the foregoing, suggests the right to self determination exercised in non state zones might preclude or contradict the right to participation.

The fact that IIP are living in 'non state spaces,' prevent states from effectively protect other human rights and comply with their fulfilment according to the existing human rights legal framework instruments and its mechanisms, as this is mode of exercising self determination produce spaces to escape and resist state zones. Or as Scott (2009), argues these are social structures that are state repelling, therefore the existing human rights legal framework that has been created for and by state zones actors might come short to guarantee both interrelated rights.

As shown in the below diagram, the enjoyment for human rights of self determination and right to participation and other related human rights, that are set for indigenous peoples and IIP varies, according to their location: inside non-state spaces or outside state zones.



Indigenous peoples living exercise of the right to self interrelated human rights as consultation and consent

inside state zones in the determination, enjoy other the right to participation, processes, such as the free,

prior and informed consent. On the other hand, IIP living outside state zones and their unique mode of exercising self determination, curtails the exercise of the human right to participation, consultation and consent processes. By no means, it is trying to be said that IIP do not have the human rights to participation, consultation and consent processes, what is trying to be said that this specific *mode of exercising self determination* curtail the exercise of other interrelated rights.

d.2 Is there an inherent conceptual contradiction between the right to self determination and right to participation for IIP?

Aikio and Scheinin (2000), argue that when indigenous peoples effectively enjoy their right to self determination, this enhances the effective exercise of other interrelated human rights. This statement suggests that the interrelation of self determination allows a better enjoyment to other human rights.

I argue that, the right to self determination is the backbone from where other democratic rights and human rights of indigenous peoples are supported, such right to participation, consultation and consent processes. Being the right to self determination a prerequisite to strengthen the exercise of other human rights, as in this particular scenario, where IIP still having the right to participation, but due to isolation being is exercised as a mode of self determination, it prevents them to exercise the

right to participate actively in the process of decision making at national and international level in matters relating policies, their future and cultural survival.

Taking into consideration the above arguments, Eide, suggests that human rights can interact, positively and negatively (Donders, Volodin and Eide, 2007). He argues, that rights interact positively, when they are mutually reinforced, therefore, ‘the enjoyment of one set of rights is as a necessary or desirable condition for the enjoyment of another set, or a necessary component of another right’ (2007:14). For example, the enjoyment of the indigenous peoples right to lands, territories and resources, allows them to withhold the consent on projects to be developed inside these ancestral territories.

They interact negatively, when there is an impact or neglect of one set of rights, on the other, therefore, extensive violations or neglect of one set of rights are likely to have a negative impact on other human rights (2007:15). Taking the IIP scenario for instance, where the lack of effective demarcation of their ancestral lands, has caused accidental or unplanned contacts, consequently a negative and direct impact on their right to health, that can lead to an extensive violation to the right to life.

I argue, there is no inherent conceptual contradiction among both rights inside states zones. However, the exercise of the right to self determination and the right to participation interact negatively to the detriment of people inside non-state spaces. Consequently, by exercising self determination in isolation, it precludes or neglects the effective exercise of other human rights, such as the right to participation, consultation and consent processes.

4. The Human Rights Paradox and the Non State Spaces

The ‘*human rights paradox*’ was presented before as: isolated indigenous peoples exercise their human right to participate, by not participating. Can we see this as a paradox human rights? Where does this human rights paradox comes from?

Before addressing the foregoing question, it is important to first look briefly re-state basic facts and

human rights tenets: (1) IIP human rights are guaranteed in the same human rights instruments that apply to all people, (2) Isolation is a *mode of exercising self determination*, (3) the fact that these peoples reside in ‘non state spaces,’ and (4) the right to self determination and the right to participation can interact negatively to the detriment of other IIP human rights.

The widely accepted fundamental rights by the states through the ratified treaties and other similar instruments, allows their governments to respect, protect and fulfil human rights, guarantee the rule of law and address the accountability processes and the denunciation of human rights violations. The mechanisms for the protection of human rights constitute the cornerstone for the promotion and the implementation of international and national human rights legal framework.

According to these human rights treaties and mechanisms, the states have complied their obligations to respect IIP human right to self determination and have adopted measures, as the ‘no-contact principle,’ towards the protection of these peoples.

I suggest the implementation of the existing human rights legal framework with a conventional human rights thinking in state repelling zones such as the non state spaces where IIP are located, provoke a negative interaction among human rights and ‘human rights paradoxes’ as the one presented. Such negative interaction of human rights and paradoxes are more difficult to find in state zones, and even if this was the case, the options to redress any possible human rights violations and abuses are higher.

Spaces where the states are absent, even when these spaces are under their territorial jurisdiction, drives the states to give priority among human rights that are exercised in an interrelated manner. Therefore, provoking also a challenge to respect, protect and fulfil human rights inside ‘state repelling’ systems.

Could the existing human rights framework, and conventional human rights thinking, be in fact an imposition onto people who might not conceive of human rights in the same way as we do? The relevance to analyse this arises from how treaties, conventions and declarations of human rights have been evolving through time and according to indigenous peoples needs. For instance, even when indigenous peoples have both the right to private property and the right to lands, the latter was determined after years of advocacy and efforts to understand how the right to lands is based upon an

intrinsic relationship of indigenous peoples to their territories. It is also relevant to analyse this possibility as this could also produce human rights violations.

a. Is there an imposition of human rights concepts to Isolated Indigenous Peoples?

Researches pertaining an analysis of IIP human rights situation, are limited to understand how these peoples might perceive their rights as distinct peoples and what are the best policies that could be adopted in order to protect them from what they consider as threats. Additionally, the *'human rights paradox'* produced in non state spaces; it can also suggest an imposition of human rights concepts that IIP are unfamiliar with. This argument does not undermine the legitimacy of the actual concepts of right to self determination and right to participation of indigenous peoples (even when their exercise in many countries are illusory, because they do not produce the desired effects for which they were created), what I am arguing is that these rights have a meaning to us, but not to IIP.

For instance, Possuelo (2013), argues that even when the states comply with their duty of land demarcation, this means a limit to our society but not to IIP societies. This argument reveals that the existing human rights concepts are made for people living inside the state zones and might not work in non state spaces. It is hard to know with precision if the existing human rights legal framework fit accordingly to their culture or worldview; in other words, if this state zone human rights legal framework can be implemented or fits the reality of non state spaces.

Therefore, my research argues that the existent human legal frameworks that states have ratified in their sovereignty can possibly end where the sovereignty of IIP starts.

b. Is it necessary to give priority to the right to self determination over the right to participation? If so, who should decide this?

Williams (2005) argues for the consideration of two analytical normative spaces of political participation and governance in the implementation of self determination. First, a space is governed by indigenous peoples themselves through forms of autonomy and self-government and the second space encompasses the political system of the state as a whole.

In addition, the autonomy of these peoples, and the implementation of the ‘no-contact principle,’ has not solved the historical and present human rights violations and abuses. Even when this is the reality, this has not changed the mode of self determination IIP have chosen, for whatever the reason might be (fear, resistance, etc).

Given the importance self determination has on indigenous peoples political and cultural autonomy as distinct peoples and their evident refusal to join nation states, self determination have been correctly prioritised and has been the best option that states have to comply with the existing human rights legal framework.

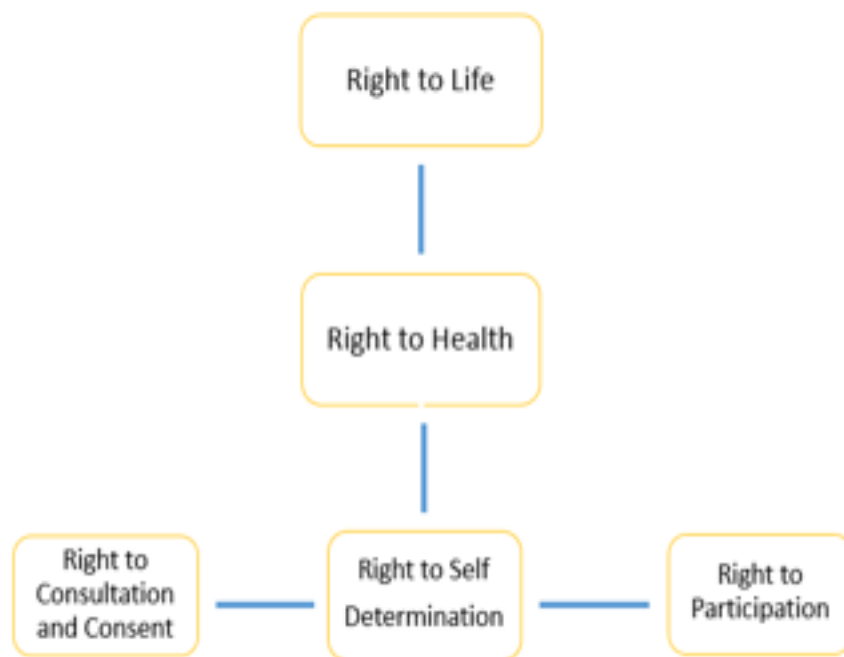
On the basis of the evidence currently available and whether or not we are talking about state or non-state spaces, states are still the power-holders and the main decision making actors with the tools, mechanisms and budget to protect IIP.

Further evidence, shows that this chosen *mode of exercising self determination*, has a negative impacts on the right to health, and this could consequently impact the right to life, without which the ‘no-contact principle’ has no purpose.

c. Does this human rights paradox cause other human rights violations?

Often the human rights discourse has been based on the premise of the indivisible character of human rights. Therefore these rights reinforce each other and there is no hierarchical distinction. In this particular case, then, when states breach the human right to health, it will necessarily affect people’s ability to exercise other human rights such as the right to life and vice versa.

The exercise of the right to self determination, even when it is relevant for peoples to decide their own destiny, becomes meaningless when there are no peoples to exercise it. If the right to life and right to health are guaranteed, IIP have a greater chance to effectively enjoy the right to self determination. The protection of these people from future extinction is a highly relevant human rights issue, and should be considered when evaluating how to prioritise different rights.



My research propose it is relevant a different approach to the IIP human rights crisis, owing the legal interest protected is the life, consequently the future survival of IIP. As shown in the below diagram, the enjoyment of human rights of self determination and right to participation are conditioned by the enjoyment of the right to life and health. This diagram applies to indigenous peoples inside non-state spaces or outside state zones.

This diagram does not intend to suggest that states should contact IIP. What it does suggest is that the right to life is a fundamental right, higher in value than right to self determination. In order to protect the right to life and the right to health, first, it requires a review on the efforts the states has been made so far.

When the ‘no-contact principle’ was adopted was an issue of self determination, nowadays the human rights has become even more special emergency actions, considering is the human right to

life at stake. Even if this argument is built under conceptions proper of the existing human rights legal framework, unknown for the IIP, is the best option states have to comply to their international obligations.

5. Conclusion

My research has analysed IIP current human rights situation living in non states spaces, where they cannot denounce human rights violations, demand the recognition and restitution of human rights according to their unique cultures, worldview and special needs. According to International Law, IIP have all the same rights as the indigenous peoples already contacted and integrated into the majority societies, as well as the human rights that every person enjoys.

In addition, my research argues the ‘set of problems’ of IIP, revolve around the interrelatedness of the human rights to life, to health, to self determination, to participation, to free, prior and informed consent, to culture and ancestral lands.

Although, there is no inherent conceptual contradiction among right to self determination and participation inside states zones, in non state spaces these rights interact negatively and appear to create a ‘paradox.’ In addition, my research takes grounds on the existing human rights legal framework and its conventional human rights thinking across non state spaces provokes a negative interaction among human rights. Consequently, precluding or neglecting the effective exercise of other human rights. Based on my findings, I have discussed the challenge created for the states to effectively protect human rights, and to comply with their human rights obligations, when the right to self determination is exercised through peoples’ attempts to remain isolated in non-state spaces.

My research provides enough evidence that suggest there is lack of interest from the Brazilian and Peruvian states to prioritise this human rights crisis, mostly reflected in limited budget, lack of land demarcations and its protection, and staff members in the state institutions working with the IIP issue.

After the study of the available evidence and the human rights discussion, I suggest the ‘no-contact principle’ is not outdated, rather poorly implemented, due to the absence serious commitment from

the Brazilian and Peruvian states. What should be reviewed are the failed mechanisms, since the right to life is endangered, therefore the survival of these peoples.

6. Recommendations

In the basis of the analysis of the current human rights situation the isolated indigenous peoples in Brazilian and Peruvian border in the Amazon, I will provide various recommendations, in the framework of the states responsibilities as duty bearers and what I argue can make a positive change in the adverse human rights scenario these peoples are facing.

1. There is a need for the states to review the protection mechanisms for the effective implementation of the 'no-contact' policy. In order to prevent future human rights violations and abuses and redress the present ones to the possible extent.
2. The Brazilian and Peruvian should carry out processes to study these peoples location and mobility patterns through satellite imagery or any other available mechanisms, that allows an effective demarcation of lands.
3. After lands demarcation, there should be implemented mechanisms for the protection of these territories, that aim to prohibit the entry for other external actors. This will prevent spread of epidemics and respect isolation as a mode of exercise of self determination.
4. Both states should start awareness campaigns among government institutions, states' officials and society in general, aim to influence perceptions and, hence, reduce discrimination and indifference to this human rights violations and abuses.
5. Ultimately, there is a need for the creation of emergency plans to be ready in case of external accidental contacts, consequently spreading of epidemics and emergency plans if a moment comes when IIP communities initiate contact.

6. Repeal laws which allow the sale of lands, logging, oil exploitation and any other activity in the IIP territories, as such sale currently presents the greatest existing threat to isolated indigenous peoples in the Amazon.

Word Count: 15, 457

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