



**UNIVERSITY OF DEUSTO**

European Master's Programme in Human Rights and Democratisation  
A.Y. 2019/2020

# **INDIGENOUS RESISTANCE AND LINGUISTIC RIGHTS**

The Contribution of the Cocaleros and the Zapatistas to the Protection  
of Indigenous Linguistic Rights in Bolivia and Mexico

**Author: Ioanna Garoufalia**

Supervisor: Felipe Gómez Isa

## **ABSTRACT**

This dissertation examines the contribution of two indigenous movements to the gradual protection of indigenous linguistic rights in Latin America, both on theoretical and practical level. The research focuses on the evolution of indigenous rights in general and specifically on the evolution of linguistic rights and linguistic rights of indigenous peoples in international law documents. The most relevant international legally binding and soft law documents were examined in order to assess the level of protection that the international community is providing to linguistic rights. Furthermore, documents with specific reference to indigenous peoples, such as the ILO Conventions No. 169 and No 107 and the UNDRIP, were examined in this regard. Attention was given on two distinctive but extremely powerful indigenous movements: the Cocaleros in Bolivia and the Zapatistas in Mexico. A thorough analysis of the emergence of these movements and the political changes that accompanied them was conducted. The main focus of the research was on the changes and reforms that these movements brought to linguistic rights and bilingual education and intercultural for indigenous peoples, as well as to the status of indigenous languages in their respective countries.

## TABLE OF ABBREVIATIONS

**CoE:** Council of Europe

**EZLN:** Zapatista Army of National Liberation

**HRC:** Human Rights Council

**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 of Economic, Social and Cultural Rights

**ILO:** International Labour Organization

**IPs:** Indigenous Peoples

**IPSP:** Instrumento Político por la Soberanía de los Pueblos

**IYIL:** International Year of Indigenous Languages

**MAS:** Movimiento al Socialismo

**MNR:** Movimiento Nacional Revolucionario

**NAFTA:** North American Free Trade Agreement

**OAS:** Organization of American States

**PRI:** Partido Revolucionario Institucional

**UDHR:** Universal Declaration of Human Rights

**UN:** United Nations

**UNDRIP:** United Nations Declaration on the Rights of Indigenous Peoples

**UNESCO:** United Nations Educational, Scientific and Cultural Organization

**UNGA:** United Nations General Assembly

## TABLE OF CONTENTS

INTRODUCTION.....	5
RESEARCH METHODOLOGY .....	8
CHAPTER I – EVOLUTION OF INDIGENOUS PEOPLES’ RIGHTS.....	10
1. Indigenous Rights during Colonization.....	10
2. Indigenous Rights in the 19th and 20th Centuries .....	12
3. International Labour Organization Conventions .....	14
4. Indigenous Peoples’ Rights in the UN System.....	17
5. The Protection of IPs’ Rights in the Inter-American System of Human Rights .....	20
CHAPTER II – LINGUISTIC HUMAN RIGHTS AND INDIGENOUS PEOPLES .....	24
1. Linguistic Human Rights .....	24
i. Scope and Obstacles in their Realization .....	24
ii. The Evolution of Linguistic Human Rights.....	28
2. The Dichotomy between Minorities and IPs .....	39
3. Indigenous Linguistic Rights.....	43
i. Language as a Tool to Facilitate Colonization.....	43
ii. Indigenous Linguistic Rights and Indigenous Education in International Law .....	46
iii. United Nations 2019 International Year for Indigenous Languages .....	51
CHAPTER III – INDIGENOUS MOVEMENTS AND LANGUAGE REFORMS IN LATIN AMERICA: THE CASES OF BOLIVIA AND MEXICO .....	54
1. The Cocaleros of Bolivia.....	55
i. IPs in Bolivia .....	55
ii. The Emergence of the Cocaleros .....	59
iii. Educational and Linguistic Reforms in Bolivia before the Rise of the Movement.....	61
iv. Evo Morales in Power: Towards Decolonizing Language and Education .....	65
2. The Mexican Zapatistas .....	67
i. IPs in Mexico.....	67
ii. The Emergence of the Zapatista Movement .....	69
iii. The Linguistic Situation in Mexico before the Rise of the Movement .....	73
iv. The Influence of the Zapatistas in the Language Policies of Mexico .....	77
v. Education in the Autonomous Zapatista Communities .....	79
CONCLUSIONS.....	83
BIBLIOGRAPHY .....	88

## INTRODUCTION

The rise of the human rights era in international law gradually led to the creation of significant safeguards on human rights and fundamental freedoms for every living person in the world. However, during this evolving procedure there have been some specific groups of peoples as well as categories of rights that were neglected and not considered equal to others. Of course, international law was based on western ideas and perceptions, but imposed on everyone. During the creation of international law and its human rights treaties, powerful states were the only ones to take part, while other non-European perceptions were not taken into account.

Such examples of excluded people from international law are usually marginalized peoples who do not fit the narrative of the West, such as indigenous peoples (henceforth: IPs). In the Western hemisphere indigenous communities have suffered violations of their fundamental rights for centuries, with many of them existing up to this day. The actors responsible for these violations changed throughout the years, from European colonizers to independent states' governments and third parties. Since the rise of the globalization wave, neo-colonial practices have been assisting governments and private industries to exploit the indigenous by breaching many of their rights. The most evident and common violation by the private sector in the Americas is the violation of the rights of IPs to their lands and natural resources. In the American context many governments collaborated with private companies for the exploitation of indigenous territories for several purposes, with the most common being oil exploration. These activities have a disastrous impact not only on the environment, but also on the living conditions of the indigenous communities that reside in these regions. For indigenous communities the connection with their land and its resources is not merely an economical relationship, but also a deeper spiritual connection related to their culture. Therefore, denial of rights to ancestral lands and exploitation of their natural resources can have an additional negative consequence on the cultural identity of these communities. Even if these violations of indigenous land rights are severe, IPs in the Americas suffer other severe breaches of their rights, which in fact affect negatively their cultural identity and survival.

Since the colonial era, they have been denied their linguistic rights – namely their rights to use their language in both the private and the public sphere without discrimination, to learn to read and write in their native language, to speak their language with other members of their communities, to have access to education, justice and information in their

native language. These violations came as a result from the strict assimilation policies adopted by the colonial empires, and continued for decades by the white, non-indigenous elites that followed after the independence. The idea of “one language, one nation” was dominant among the newly founded independent Latin American states which saw the existence of only one dominant language as a prerequisite for maintaining national cohesion and creating a sense of community and belonging to everyone. In addition, they thought that through the adoption of one single language, they would prevent other groups of people with common identity to rise up and demand autonomy. Therefore, through the adoption of assimilation, monolingual policies, these elites believed that they would preserve territorial integrity and sovereignty. These policies, varied from the complete ban of using indigenous languages in public to the creation of an education system that only provided education in the dominant official language of the majority even to indigenous communities. In addition, discrimination and exclusion from the society of the peoples that did not speak the dominant language led many indigenous parents to encourage their children to learn the official language instead of their native one, in order not to be discriminated against and marginalized from economic and social development.

Despite the fact that assimilation policies managed to limit significantly indigenous linguistic rights and contribute to the loss of indigenous languages and cultures, aiming to a unique common national identity, they never managed to be completely accomplished. In fact, assimilation in Latin America, together with other aggressive practices, led to the emergence of indigenous movements that claimed their rights. Assimilation for their indigenous meant a loss of language and culture, contributing to the violation of their rights and menacing their very existence. These communities realized that they had to take action in order to defend their rights and protect their indigenous identities and heritage. The movements that arose from this realization have contributed greatly to raising awareness on indigenous rights in the international community, which neglected the natives for centuries. IPs made themselves visible within an international system that did not take their rights into account. On international level, these strong indigenous movements managed to ensure their participation in the decision-making and drafting of documents on issues that concerned them. On regional level, the creation of the Inter-American Commission of Human Rights as well as the Court have provided indigenous communities in the Americas with a powerful venue through which they could raise their issues and concerns and defend their rights. Lastly, on national level indigenous movements had a major influence on national policies in matters that affected them, including constitutional changes.

In Bolivia and Mexico, during the 90s and 00s, the world has witnessed the rise of two powerful indigenous movements: the Cocaleros and the Zapatistas respectively. The first one led to the rise in power of the first indigenous President of the country, while the former had as a result the creation of the Zapatista autonomous municipalities. Except from the positive impact that these movements had in several aspects of life of the indigenous communities, they contributed to the promotion and protection of linguistic rights in their respective countries. This dissertation examines how these movements led to significant linguistic and educational reforms in Bolivia and Mexico. In order to examine this question, I have divided the present work in three chapters. The first chapter will work as an introduction to the evolution of indigenous rights and will provide the theoretical framework of the present work. I will examine the indigenous-specific documents that have been adopted throughout the years as well as other significant developments in this regard. In the second chapter I will refer specifically to the concept of linguistic rights, their scope and violations, as well as the international legally binding and soft law documents that address them. In addition, I will refer to indigenous linguistic rights specifically and the references made in international documents on IP rights. Lastly, I will refer to a significant step towards awareness that was taken by the United Nations by proclaiming 2019 as the International Year of Indigenous Languages. The last chapter and the main focus of this work is a detailed analysis of the emergence of the Cocaleros and Zapatista movements in Bolivia and Mexico and the contribution of these movements to the promotion and protection of linguistic rights.

## RESEARCH METHODOLOGY

The research was based on sources from literature of different kinds. In the first chapter that provides the theoretical and legal framework regarding the evolution of indigenous rights, a variety of sources was analysed. Historical and academic material was used for the elaboration of the parts regarding the status of IPs during colonization and in the 19th and 20th century. In these two first parts I aim to present the inferior position that IPs held and their absence from human rights protections and international law. In the three parts that follow I examine the international documents – legally binding and soft law - that have been adopted to address the rights of IPs. In this section, apart from academic material, I analyse legal documents: Conventions, Declarations, UN and OAS documents. With this legal analysis I aim to present the legal framework that govern indigenous rights in international and regional level (in the Americas) and their drafting procedure, their scope and content as well as the level of protection that they provide. Regarding the Inter-American Human Rights system, I make a complete reference on its functions and how its bodies, mechanisms and documents have benefited the indigenous in the American context.

In the second chapter of this work I address the main type of rights in which this work focuses: linguistic rights. In order to make a clear definition and elaboration of their scope, I have analysed a variety of academic sources both from the fields of linguistics and human rights. In order to assess the protection provided to linguistic rights on international and regional level, I conducted a legal analysis of international and regional documents that address linguistic rights and the status of languages, created not only by the UN but also by regional organizations. The second part of the chapter, which makes a reference to the distinction between minorities and IPs, I have examined both legal documents as well as academic material. In the third part of the chapter I refer to indigenous linguistic rights, and more specifically to violations of these rights and the use of language as a tool to enable colonialism and assimilation practices. Furthermore, I examine the provisions of the indigenous-specific international law documents regarding indigenous languages, linguistic rights and indigenous bilingual education. In order to do so, I have analysed again legal documents as well as academic material. Lastly, I have used UN documents as sources for my analysis of the scope and implementation of the 2019 International Year of Indigenous Languages.

In the third chapter, I examine two cases of indigenous movements in Bolivia and Mexico and how these movements have influenced linguistic rights guarantees and protections. In order to do so, I analysed historical sources on the evolution of indigenous communities in Bolivia and Mexico and on the political and historical changes that led to the emergence of these movements. In addition, I examined legal documents such as laws and Constitutions in order to provide a complete picture on the changing status of IPs and their rights in these two states as well as the improvements that the Cocaleros and the Zapatistas brought in these fields in both legal and practical level.

This thesis combines a variety of sources in academic fields of law, history, political science and linguistics. This interdisciplinary approach provides a clear and complete picture of the status of indigenous linguistic rights in the present day and the contribution of indigenous movements in this regard.

## CHAPTER I – EVOLUTION OF INDIGENOUS PEOPLES’ RIGHTS

This chapter functions as the theoretical framework of the present work. In this chapter I will briefly present an overview of the progressive evolution of IPs’ rights in international law throughout the years. This historical evolution will provide the necessary information for a better understanding of the historical injustices, as well as the evolving approaches towards the issue of, firstly recognition, and, consequently, protection of indigenous rights. This chapter will make an introduction to the existing international and regional legal framework that governs indigenous peoples’ rights. A detailed analysis on the content of the provisions of these legal texts is considered necessary for the further examination in the following chapters which will focus mostly on linguistic rights. Specific focus will be given to the Inter-American system, as this is the geographical area on which this work will focus.

### 1. Indigenous Rights during Colonization

After years of negotiations and indigenous claims, an international legal framework on IPs’ rights is currently evolving. However, it is important to mention that IPs around the world have been excluded from both international and domestic law for years. This exclusion has been the result of their systematic marginalization by the dominant societies, for which they remained invisible until very recently. In fact, in the colonial empires international law has been used by colonizers to subordinate and take advantage of IPs.

Traditional international law, created in the West, served the interest of European colonizing states for many years, playing a major role in the conquest, subjugation and dispossession of the lands, territories and resources of IPs<sup>1</sup>. During the times of extended colonization, international law has been used as a justification for the acquisition of IPs’ territory and the denial to grant them rights in European terms, as international law only applied to “civilized” European states<sup>2</sup>. In this way, international law came to legitimize the cruelty of Europe towards the natives of the Americas. This application had a double benefit

---

<sup>1</sup> Felipe Gómez Isa, *The UNDRIP: An Increasingly Robust Legal Parameter* (7-21, 23:1-2 The International Journal of Human Rights 2019) , p. 7.

<sup>2</sup> Odette Mazel, *The Evolution of Rights: Indigenous Peoples and International Law* (13.1 Australian Indigenous Law Review 2009), p. 141.

for the colonizing states, as it served both their religious and economic interests<sup>3</sup>. Christianization of the “barbarous” non-Christian peoples - the so-called evangelization - was often used as a pretext for subordinating the natives and removing their possessions and their lands<sup>4</sup>. Therefore, the colonizers managed to satisfy both their economic objectives, that was to take advantage of the lands and natural resources offered in this New World, and fulfill the mandate assigned to them by the Crown and the Catholic Church to spread Christianity. The Spanish colonizers achieved these two goals through the *encomienda system* that regulated the relationship between the conquerors, the “masters”, and the native peoples, the “servants”<sup>5</sup>.

The criticism towards this unjust system of treatment appeared for the first time in 1511 in a sermon by a Spanish Dominican friar named Antonio de Montesinos. He was the first person to denounce the inhumane treatment and the enslavement of IPs by the *conquistadores*. This sermon was considered quite controversial and revolutionary at the time and provoked criticism by the Spanish colonists and *encomenderos*. Montesinos managed to shock the Spanish Crown who immediately asked for the creation of a body of theologians, jurists and officials, including Montesinos, with the aim to draft the *Law of Burgos*, the first document that would regulate the treatment towards IPs in the Americas by Spanish colonists. The *Law of Burgos* did not completely abolish the *encomienda* system but put specific regulations on it, mostly regarding the working conditions of IPs<sup>6</sup>. The content of Montesinos’ sermon influenced widely a number of intellectuals at that time, with the most important being Bartholomé de Las Casas, who was later known as the Protector of the Indians.

Spanish theologians Bartholomé de Las Casas and Francisco de Vitoria, together with others, constituted the Spanish School of International Law who in the 16th century was the first to associate international law with “*pre-positivist conceptions of natural law*”<sup>7</sup>. Vitoria’s view regarding Spanish colonization in the Americas, which was widely popular in the 16th century, was that Indians had the same rights and duties as European colonizers,

---

<sup>3</sup> Felipe Gómez Isa, *Spain: The First Cry for Justice in the Americas — from Antonio de Montesinos to the Law of Burgos*, *op. cit.*, p. 95.

<sup>4</sup> Federico Lenzerini, *Reparations for Indigenous Peoples: International And Comparative Perspectives* (Oxford University Press 2009), p. 78.

<sup>5</sup> Felipe Gómez Isa, *Spain: The First Cry for Justice in the Americas — From Antonio de Montesinos to the Law of Burgos*, *op. cit.*, p. 94-95.

<sup>6</sup> *Ibid*, p. 96-97.

<sup>7</sup> Odette Mazel, *The Evolution of Rights: Indigenous Peoples and International Law*, *op. cit.*, p. 140.

applying natural law in order to challenge Spanish claims over natives' lands<sup>8</sup>. He claimed that the Indians had entitlement to their lands and the Europeans had to respect that<sup>9</sup>. In this way, he started seeing non-European IPs as subjects of international law and as human beings in need of protection<sup>10</sup>. These intellectuals were highly concerned about the rights of Indians in the context of the Spanish conquest and aimed to support "*the legal and moral relationship between European states and indigenous peoples*"<sup>11</sup>. The Spanish School of International Law based their arguments on "*the Aristotelian-Thomist idea of the natural sociability and rationality of human beings*" in order to support their claims on the human dignity and freedom of the Indians<sup>12</sup>. Even though in the history of colonization little attention was given to the progressive thoughts on human dignity and equality of the Spanish School regarding IPs, this recognition of their rights during the birth of international law constituted a solid ground for indigenous movements claiming their rights in the future<sup>13</sup>.

## 2. Indigenous Rights in the 19th and 20th Centuries

From the 19th century we notice a domination of positivism upon ideas of international law in Europe. That was mainly because at that time international law only concerned the rights and duties of states and not of individuals, and the sovereignty of states was considered sacred<sup>14</sup>. International law had put European states at the center. According to this positivist approach, IPs were excluded from being subjects of international law as they were considered "uncivilized" compared to the European standards of civilization regarding aspects such as governance and culture. This Eurocentric approach was the reason behind the refusal of statehood to indigenous people and their subjection under domestic law of the successor states<sup>15</sup>.

In late 19th to the beginning of the 20th century the idea of trusteeship and guardianship evolved and powerful states began to adopt it. Even though these doctrines were

---

<sup>8</sup> S. James Anaya, *Indigenous Rights Norms in Contemporary International Law* (8th edn, Arizona Journal of International and Comparative Law 1991), p. 2.

<sup>9</sup> S. James Anaya, *Indigenous Peoples in International Law* (Oxford university press 2000), p. 10.

<sup>10</sup> Ibid.

<sup>11</sup> Odette Mazel, *The Evolution of Rights: Indigenous Peoples and International Law*, op. cit., p. 140.

<sup>12</sup> Felipe Gómez Isa, *Spain: the First Cry for Justice in the Americas — from Antonio de Montesinos to the Law of Burgos*, op. cit., p. 102-103.

<sup>13</sup> Odette Mazel, *The Evolution of Rights: Indigenous Peoples and International Law*, op. cit., p. 142.

<sup>14</sup> S. James Anaya, *Indigenous Peoples in International Law*, op. cit., p. 19.

<sup>15</sup> Odette Mazel, *The Evolution of Rights: Indigenous Peoples and International Law*, op. cit., p. 141.

based on the ideas of Vitoria and the Spanish School, they followed the rationale that claimed that IPs needed to be civilized. Trusteeship and guardianship have been used by states “*for the non-consensual exercise of authority over indigenous peoples*”, with a mission was to civilize the natives<sup>16</sup>. Great Britain and the United States are two of the most prominent examples of incorporating the trusteeship notion into domestic law. With the justification of their civilizing mission, these states controlled IPs and their lands. In the General Act of the Berlin Conference the guardianship doctrine obtains an international status. Under article VI, the parties that sign the Act “*bind themselves to watch over the preservation of the native tribes, and to care for the improvement of the conditions of their moral and material well-being ... and [bring] home to them the blessings of civilization*”<sup>17</sup>. After World War I, with the Covenant of the League of Nations in 1919, trusteeship was broadened as an international notion and all member states bound themselves to ensure “*the just treatment of the native inhabitants of territories under their control*”<sup>18</sup>. These two documents - that gave the trusteeship notion an international character - were considered parts of international law at the time. Even though IPs were considered limited objects of international law, trusteeship notions were mostly justifications for unjust acts and policies, rather than international safeguards. Therefore, this approach by the international community had devastating impact on indigenous sovereignty, political organization, land rights and cultural integrity, maintaining their submission under the justification of a “civilizing mission”.

Both the positivist approach and the trusteeship doctrines that were included in international law until the first half of the 20th century, excluded IPs and their rights from the international debate and disregarded them as subjects of international law, as their cultures were considered incompatible with its Eurocentric approach. Until the first half of 20th century the West believed in the civilizing mission of Europeans towards non-European peoples. However, this would change shortly after World War II with the emergence of the human rights era in international law. Indigenous movements would take advantage of this shift to promote their recognition and improve the status of their rights. The advancement of indigenous rights under international law was the main aim of the indigenous movements<sup>19</sup>.

---

<sup>16</sup> S. James Anaya, *Indigenous Peoples in International Law*, *op. cit.*, p. 23.

<sup>17</sup> *General Act of the Conference of Berlin (1885) Chapter I Article 6*, signed on 26 February 1885 by the representatives of the United Kingdom, France, Germany, Austria, Belgium, Denmark, Spain, the United States of America, Italy, the Netherlands, Portugal, Russia, Sweden-Norway, and Turkey (Ottoman Empire).

<sup>18</sup> S. James Anaya, *Indigenous Peoples in International Law*, *op. cit.*, p. 25.

<sup>19</sup> Cher Weixia Chen, *Indigenous Rights in International Law* (Oxford Research Encyclopedia of International Studies 2014), p. 1.

### 3. International Labour Organization Conventions

After World War II and the atrocities that came with it, the discourse of human rights appeared in international level. This discourse put human beings over states interests. The Charter of the United Nations was the first document to promote human rights and fundamental freedoms as main concerns. The decolonization process was also included in the Charter, as a stepping stone for the introduction of indigenous rights into international discourse. Therefore, from the late 50s we start noticing an evolution towards the recognition and protection of the rights of IPs by international bodies.

The ILO Indigenous and Tribal Populations Convention No. 107, adopted in 1957, was the first legally binding instrument that addressed IPs' rights. However, due to its assimilationist approach, the Convention is considered anachronistic. From the Preamble of this Convention it becomes clear that its main objective is the progressive integration of IPs into the national communities of the countries in which they live in<sup>20</sup>. Even if the drafters had worked in goodwill to protect and improve the living conditions of indigenous populations, the paternalistic approach of the Convention - a reflection of its time - seems to be quite dangerous. The different ways of life of indigenous people were considered contradictory to the dominant culture by the governments interpreting the Convention, leading many times to their extinction from the respective societies<sup>21</sup>. This was based on the idea of a culturally homogenous state. As James Anaya mentions, "*the international community valued cultural diversity, it was largely the diversity existing among the different states and colonial territories, not the diversity that might exist wholly within them*"<sup>22</sup>. Another point of criticism is that during the drafting procedure of this Convention, there was no participation of indigenous representatives, disrespecting this way the opinion of IPs on issues that concern them. In addition, even though the Convention recognized the right to collective land ownership, this was disregarded by the ideas of integration and assimilation that were dominant in its content.

The paternalistic character of the Convention provoked wide criticism by scholars and IPs, leading to the revision of the Convention in 1989 by a Meeting of Experts which included indigenous representatives. The document that resulted was the ILO Indigenous and

---

<sup>20</sup> Federico Lenzerini, *Reparations for Indigenous Peoples: International and Comparative Perspectives*, op. cit., p. 80.

<sup>21</sup> S. James Anaya, *Indigenous Peoples in International Law*, op. cit., p. 47.

<sup>22</sup> Ibid, p. 44.

Tribal Peoples Convention No. 169, the main binding legal document on indigenous rights until today. The wide participation of indigenous representatives at the revision procedure was extremely innovative and it reflected the time, as IPs had stopped being objects and started being participants in the discussion over their rights. This document is extremely innovative as it shows the shift of the approach of international law towards IPs, quitting the attempt to integrate them and focusing more on “*recognizing the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live*”, as mentioned in the Preamble of the Convention<sup>23</sup>.

A significant proof of this change of philosophy is the substitution of the word *populations* from the previous Convention, with the word *peoples*. The word *peoples*, encompasses a wider recognition of a specific group and subsequently of its rights. However, this change of language has made many states reluctant on adopting the Convention, because of its connection with the right to self-determination and thus the possibility of IPs claiming their territorial independence from the dominant state<sup>24</sup>. For this reason, the drafters of the Convention, despite the disagreement with the indigenous representatives, decided to add a provision in Article 1 (3) mentioning that “*the use of the term peoples in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law*”, and as a result not having a connection with the right to self-determination as understood in international law<sup>25</sup>. However, the use of the term *peoples* itself affirms the collective indigenous identity and opens up the way for the recognition of the principle of indigenous self-determination in the future.

Another important aspect of this Convention is that it widens the spectrum of rights to be protected, to reach rights that were not addressed in the ILO Convention No. 107 such as development, education, land rights, the right to participate in the use, management and conservation of natural resources, and the fact that it recognizes customary law and institutions of IPs<sup>26</sup>. In other words, the Convention recognizes both individual and collective indigenous rights. Another important addition that the ILO No. 169 Convention brought was the participation of IPs in all levels of decision-making affecting them, as well as the duty of

---

<sup>23</sup> International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169, Preamble.

<sup>24</sup> S. James Anaya, *Indigenous Peoples In International Law*, *op. cit.*, p. 16-17.

<sup>25</sup> International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169, article 1, paragraph 3.

<sup>26</sup> Federico Lenzerini, *Reparations for Indigenous Peoples: International and Comparative Perspectives*, *op. cit.*, p. 80.

governments to consult the people concerned when they are about to take legislative or administrative measures that may affect them directly, with the objective to gain an agreement or their consent regarding these measures. This is an important improvement, as the participation in the decision-making procedures currently constitutes a fundamental principle regarding the rights of IPs<sup>27</sup>. Lastly, the supervisory mechanisms of the Convention play an important role for the successful implementation of the provisions, monitoring and supervision of the state parties<sup>28</sup>.

Despite the innovative character of the ILO Convention No. 169, it has also received wide criticism. First of all, in this Convention IPs were still seen as objects of protection by the governments and not as subjects and holders of rights<sup>29</sup>. Regarding the above mentioned recognition of the participation of IPs' and consultation procedures, it is important to notice that even though the Convention mentions that consultation is obligatory and a duty on behalf of the state, reaching an agreement or ensuring the consent by the IPs concerning a specific measure is not a requirement, weakening this way the position of IPs in matters that concern them<sup>30</sup>. An obstacle to the correct application of the Convention is the lack of appropriate regulation regarding prior consultation in some states<sup>31</sup>.

Despite the fact that the ILO Convention No. 169 is a step towards the recognition of specific rights and includes customary law applied to IPs, many states are still reluctant to ratify it, limiting this way its scope of application. Indeed, until today only 23 states have ratified the Convention, most of them from Latin America. This low level of ratification limits significantly its protection. However, the ILO Convention No 169 remains an important document until today, not only because it is the only international instrument of legally binding character regarding indigenous rights, but also because it led the way for future advancements.

---

<sup>27</sup> Sedfrey M. Candelaria, *Comparative Analysis On The ILO Indigenous And Tribal Peoples Convention No. 169, UN Declaration On The Rights Of Indigenous Peoples (UNDRIP), And Indigenous Peoples ' Rights Act (IPRA) Of The Philippines* (International Labour Organization, ILO Country Office of the Philippines 2012), p. 5.

<sup>28</sup> Ibid.

<sup>29</sup> Federico Lenzerini, *Reparations for Indigenous Peoples: International and Comparative Perspectives*, *op. cit.*, p. 81.

<sup>30</sup> S. James Anaya, *Indigenous Peoples in International Law*, *op. cit.*, p. 82.

<sup>31</sup> Roberto Suárez Santos, *Three Decades Since The ILO'S Convention 169: Reflections In Light Of The Experience Of The Private Sector With Prior Consultation* (24 The International Journal of Human Rights 2019), p. 273.

#### 4. Indigenous Peoples' Rights in the UN System

Around the 70s and 80s the United Nations started making steps to address issues on IPs. The United Nations worked as an avenue for indigenous people to increase their visibility and promote their recognition. With the decolonization of international law and the UN system, IPs managed to shift their position, turning from objects of protection to subjects of rights<sup>32</sup>. Their acceptance and participation in the UN human rights bodies and mechanisms started with the Working Group on Indigenous Populations<sup>33</sup>. The creation of the Working Group in 1982 was an important step towards the recognition of IPs' rights for two reasons. First of all, it was the most important actor for promoting international awareness on the rights of IPs<sup>34</sup>. Secondly, it provided indigenous groups with a forum in which they could express their concerns and discuss on their rights, as the participation of both government representatives from states and indigenous representatives was on an equal basis<sup>35</sup>. International IPs' movement finally had a primary venue to discuss and promote the collective rights<sup>36</sup>. In the mandate of the Working Group was also included the drafting of the United Nations Declaration on the Rights of IPs.

The most significant step taken by the UN is until now the adoption of the United Nations Declaration on the Rights of IPs in 2007. A distinguishing aspect regarding the drafting of this Declaration was the active participation of indigenous representatives. This can be explained by the fact that in the drafting of soft law documents the participation of non-state actors is higher than in the drafting of international treaties<sup>37</sup>. This engagement of indigenous representatives in the procedure led to the creation of an inclusive soft law document regarding the rights of IPs. This inclusiveness that characterized the process increased the level of legitimacy of the document<sup>38</sup>. In addition, the long procedure of negotiation and the large number of actors participating in the drafting, makes the UNDRIP one of the most comprehensive UN documents.

---

<sup>32</sup> Felipe Gómez Isa, *The UNDRIP: An Increasingly Robust Legal Parameter*, *op. cit.*, p. 9.

<sup>33</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 9, Rev. 2, Indigenous Peoples and the United Nations Human Rights System*, August 2013, No. 9, Rev. 2, p. 14.

<sup>34</sup> Odette Mazel, *The Evolution of Rights: Indigenous Peoples and International Law*, *op. cit.*, p. 145.

<sup>35</sup> S. James Anaya, *Indigenous Rights Norms in Contemporary International Law*, *op. cit.*, p. 10.

<sup>36</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 9, Rev. 2, Indigenous Peoples and the United Nations Human Rights System*, *op. cit.*, p. 18.

<sup>37</sup> Felipe Gómez Isa, *The Role Of Soft Law In The Progressive Development Of Indigenous Peoples Rights* in Lagoutte, S., Gammeltoft-Hansen, T. and Cerone, J., *Tracing The Roles Of Soft Law In Human Rights* (Oxford University Press 2016), pp. 284-285.

<sup>38</sup> Felipe Gómez Isa, *The UNDRIP: An Increasingly Robust Legal Parameter*, *op. cit.*, p. 13.

Following the same path as the ILO Convention No. 169, the drafters used the word *peoples* instead of *populations* to refer to the indigenous groups concerned. However, an important difference between the two documents regarding the use of this word is that in the UNDRIP the right to self-determination is explicitly affirmed both in the Preamble and Articles 3 and 4 of the Declaration, giving it the importance of a main principle regarding IPs and answering to the requests of IPs. In addition, there is no protective clause like the one mentioned in the ILO Convention No 169 that protects the states from the possibility of territorial independence claims by indigenous groups. In regards to the issue of consultation, the approach of the UNDRIP is similar to that of the ILO Convention No. 169, as it also focuses on the concept of consent by IPs for measures that affect them, without giving them a “veto power”<sup>39</sup>. A difference between the two documents is that the UNDRIP is largely supported by the majority of countries around the world, when the ILO Convention No. 169 has been ratified by a small number of states, mainly in Central and Latin America<sup>40</sup>. However, this can be explained by the non-binding character of the document. The ratifying states of the ILO Convention No.169 are obliged to report regularly to the supervisory mechanisms of the Convention, something that makes the other states more skeptical on ratifying it. The absence of supervisory mechanisms in the UNDRIP due to its non-binding nature is another distinguishing factor between the two documents. Even though the UNDRIP is not a legally binding document, it is considered up to this day the most significant and complete international legal instrument concerning the rights of IPs. First of all, as it was adopted by the UN General Assembly, it shows the collective UN’s approach towards the issues of IPs and it should be taken into account by state parties in good faith<sup>41</sup>. Since its adoption, the Declaration has had practical and legal implications to the measures taken by the states, sometimes even leading to constitutional changes in order to include IPs’ rights<sup>42</sup>.

Despite the contribution of the Working Group on the drafting of the UNDRIP and therefore, the advancement of indigenous rights within the UN system and internationally, other UN bodies and mechanisms are considered equally significant. The Permanent Forum on Indigenous Issues is an advisory body to the Economic and Social Council that was

---

<sup>39</sup>Sedfrey M. Candelaria, *Comparative Analysis on The ILO Indigenous And Tribal Peoples Convention No. 169, UN Declaration On The Rights Of Indigenous Peoples (UNDRIP), And Indigenous Peoples' Rights Act (IPRA) Of The Philippines*, *op. cit.*, p. 21.

<sup>40</sup>*Ibid*, p. 3.

<sup>41</sup>*Ibid*, p. 5.

<sup>42</sup>Felipe Gómez Isa, *The UNDRIP: An Increasingly Robust Legal Parameter* (23 *The International Journal of Human Rights* 2019), *op. cit.*, p. 15.

established to promote dialogue and cooperation between member states, UN agencies and IPs. Its role is important for the awareness and promotion of activities regarding issues that concern IPs, as well as the circulation of information and the assessment of the work of the UN system related to indigenous issues<sup>43</sup>. In addition, the studies carried out by the Permanent Forum reveal useful information for specific matters that affect indigenous people. The annual session of the Forum in New York provides member states, indigenous representatives, organizations, non-state actors and UN agencies with the chance to meet and conduct a constructive dialogue for addressing indigenous issues and promote their rights and aspirations.

The Expert Mechanism on the Rights of IPs was established in 2007 with the mandate to provide the Human Rights Council - the main UN human rights body - with advice on the rights of IPs through thematic studies, according to the UNDRIP, and the member states with assistance in fulfilling the standards included in the declaration. The studies conducted by the Expert Mechanism are presented to the HRC and then an interactive dialogue follows between the Council and the Expert Mechanism. This mechanism constitutes a key human rights body as in each one of its studies it focuses on specific human rights examined in the context of indigenous communities. It also provides indigenous organizations and individuals with the opportunity to participate and express their concerns and views on the specific human rights examined in the study conducted by the Expert Mechanism.

The Special Rapporteur on the rights of IPs constitutes a special procedure of the HRC. In order to fulfill her mandate, the Special Rapporteur promotes good practices for the implementation of international standards on the rights of IPs, conducts country visits and reports on the human rights situation of IPs in specific countries, addresses specific alleged human rights violations through Communications with governments and conducts and contributes to thematic studies on issues of specific importance for IPs. The Special Rapporteur reports to the HRC on specific indigenous rights issues and collaborates with the Permanent Forum and the Expert Mechanism. Through their meetings the three UN bodies that deal with indigenous issues manage to coordinate their activities and share useful information for future advancements. The Special Rapporteur attends the annual sessions of both the Expert Mechanism and the Permanent Forum. Therefore, the mandates of these three bodies should be considered complementary<sup>44</sup>. The proper communication, coordination and

---

<sup>43</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 9, Rev. 2, Indigenous Peoples and the United Nations Human Rights System*, *op. cit.*, p. 12-13.

<sup>44</sup> *Ibid.*

collaboration between these three actors contribute significantly to the advancement of IPs' rights not only within the UN system but also at a national, regional and international level.

## 5. The Protection of IPs' Rights in the Inter-American System of Human Rights

The Organization of American States includes all states of the American continent. The direction of the organization towards human rights came rapidly with the adoption of the American Declaration on the Rights and Duties of Man in 1948. The creation of the Inter-American Commission on Human Rights was important for the protection of human rights, as it has authorization to assess the compliance of OAS member states with the provisions of the Declaration. An important advancement for indigenous communities came with the 1966 modification of the Statute which gave the IACHR the mandate to receive and examine individual petitions from victims of human rights violations, as well as the power to make specific recommendations to states concerning them. Today, this function has proved to be extremely useful for victims of human rights violations and specifically for indigenous communities who were excluded and denied access to judicial remedies for many years. This significance can be demonstrated by the high number of petitions filed by indigenous communities and NGOs regarding violations by states.

The adoption of the American Convention on Human Rights in 1969 and the creation of the Inter-American Court of Human Rights enhanced the protection of human rights in the Americas. The IACHR supervises state compliance with the Convention. In the case that the state party concerned has accepted the jurisdiction of the Court, the IACHR has the power to refer a case to it. However, the IACtHR only considers cases related to violations of the provisions of the Convention. Therefore, for a state to accept the jurisdiction of the Court, it must first ratify the Convention. Regarding indigenous cases in this context, cases against the US and Canada, for example, were decided at IACHR level, while cases against Nicaragua, Colombia, Guatemala and Paraguay were decided by the Court<sup>45</sup>. Even though the American Convention does not recognize collective rights *per se*, Article 29 (b) comes to extend the scope, mentioning that "*No provision of this Convention shall be interpreted as: (b) restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a*

---

<sup>45</sup> J. M. Pasqualucci, *The Evolution Of International Indigenous Rights In The Inter-American Human Rights System* (6 Human Rights Law Review 2006), p. 283.

party;”<sup>46</sup>. This provision proved to be extremely useful for indigenous communities, as many of the cases that concerned indigenous collective rights, such as land and natural resources, have been considered by the Commission and the Court under the ILO Convention No 169, given that the states concerned had ratified it. The IACHR and the IACtHR have produced important case law on IPs’ rights, with many leading cases such as the *Awás Tingni* case against Nicaragua regarding indigenous communal land rights. The IACtHR is the first international judicial body to interpret indigenous rights and principles that for many centuries were considered irrelevant to Western, Euro-centric approaches of international law<sup>47</sup>.

Protection of indigenous rights has been an important thematic for the OAS since the 80s, as seen from various cases handled and through country and annual reports. The creation of a special mechanism, the Office of the Rapporteur on the Rights of IPs in 1990, aimed to give specific attention to the vulnerable situation of indigenous communities in the Americas, to human rights violations occurring against them and to promote Commission’s activities in this regard. The fact that it was the first - and for many years the only - Rapporteur in the OAS proves the high importance given to IPs in the Inter-American system. The Rapporteur conducts country visits, receives information and publishes thematic reports on issues affecting IPs, and is in close collaboration and communication with the Commission for the preparation of country reports as well as the Annual Report.

The most recent enhancement in the Inter-American system concerning indigenous rights is the adoption of the American Declaration on the Rights of IPs in 2016. The Declaration encompasses many aspects of the UNDRIP such as the principle of self-determination and collective rights which are key in the discourse concerning indigenous rights. However, the Declaration addresses some issues that have not been included in the UNDRIP and which are specific to the IPs of the Americas. Article XXVI deals with the issue of *Indigenous Peoples in voluntary isolation or initial contact*. This is an evident example of a regional specificity of the Americas as “*the western hemisphere is home to the largest number of indigenous peoples living in voluntary isolation and initial contact in the world*”<sup>48</sup>. According to a Report by the IACHR on IPs in Voluntary Isolation and Initial

---

<sup>46</sup> Organization of American States (OAS), *American Convention on Human Rights "Pact of San Jose, Costa Rica" (B-32)*, 22 January 1969, article 29, paragraph b.

<sup>47</sup> J. M. Pasqualucci, *The Evolution Of International Indigenous Rights In The Inter-American Human Rights System*, *op. cit.*, p. 284.

<sup>48</sup> IA CommHR, Rapporteur on the Rights of IPs, *Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas*, OEA/Ser.L/V/II., Doc. 47/13, 30 December 2013, p. 1.

Contact in the Americas “*Indigenous Peoples living in voluntary isolation and initial contact are holders of human rights in a unique situation of vulnerability, and among the few who cannot advocate for their own rights. This reality makes ensuring respect for their rights especially important*”<sup>49</sup>.

Another addition by the American Declaration which is region-specific is the consideration of the impact of armed conflict on IPs in Article XXX, *Right to peace, security and protection*<sup>50</sup>. Even though UNDRIP’s Article 7 mentions IPs’ collective right to freedom, peace and security, mentioning as well prohibition of genocide, violence and forcible removal of children from their communities, it does not address the issue of armed conflict at any point. On the other side, the American Declaration in Article XXX makes extended reference to the right to protection and security of IPs in situations of armed conflict and to the responsibility of the states in accordance to international law<sup>51</sup>. This is a rather significant provision in the context of the Americas if we consider the amount of armed conflicts that have occurred in countries such as Colombia, with the Nükak people being “in danger of extinction” due to displacements resulting from armed conflicts<sup>52</sup>. The Declaration introduces another provision in favor of IPs which mentions that in case of internal disputes between IPs and a state regarding a treaty, an agreement or other constructive agreement, both the state and the indigenous community affected can submit the case to regional or international bodies for resolution of the dispute. As Errico mentions, such treaty rights “*are particularly relevant to the Americas in ways that have been regarded as a major victory*” by some indigenous peoples of the hemisphere<sup>53</sup>.

In spite of some short fallings in the American Declaration on the Rights of IPs, it should be considered a significant improvement for the protection of indigenous rights in the American continent, especially if considered along with the power that the IACHR gives to IPs through its individual petition mechanism. The Declaration provides the IACHR and the IACtHR with an inclusive, indigenous-specific document in order to be assisted in their work. However, the document should be always considered in connection with other international documents such as the ILO Convention No 169 and the UNDRIP when deciding on indigenous cases, in order to result to more complete rulings. Even though the Inter-

---

<sup>49</sup> Ibid.

<sup>50</sup> Stefania Errico, ‘The American Declaration On The Rights Of IPs’, *op. cit*

<sup>51</sup> Organization of American States, American Declaration on the Rights of IPs, *op. cit*

<sup>52</sup> IA CommHR, Rapporteur on the Rights of IPs, IPs in Voluntary Isolation and Initial Contact in the Americas, *op. cit.*, p. 42.

<sup>53</sup> Stefania Errico, ‘The American Declaration On The Rights Of IPs’, *op. cit*.

American system has promoted indigenous rights through the work of the IACHR and the IACtHR, it is still quite a weak system due to an insufficiency of resources.

## CHAPTER II – LINGUISTIC HUMAN RIGHTS AND INDIGENOUS PEOPLES

In this chapter I will make an extended reference to linguistic human rights in connection with IPs. Firstly, I will provide the reader with the scope and content of linguistic rights and I will mention a few obstacles in their successful realization. Secondly, I will examine different legally binding and soft law documents that address linguistic human rights directly or as part of other provisions. In this way I will assess the position of linguistic human rights in international law. I will discuss the linguistic rights of minorities and the legal documents that protect minority languages. In addition, I will refer to the different approach towards minorities and IPs that exists in international law and to the reasons why their rights should be considered separately. In the last part, I will address indigenous linguistic rights in detail. Extensive focus will be given to the right to education in connection with linguistic rights, as for IPs these rights are extremely interrelated and linked to their cultural integrity. Furthermore, I will examine the specific provisions on language and education included in the different documents of international law that address indigenous rights, and which have been examined in detail in the previous chapter. Lastly, I will refer to promotional action taken by the UN in order to raise awareness on the importance of linguistic diversity and the revitalization of indigenous languages, in light of the current increase of indigenous language extinction. More specifically I will examine the scope of the 2019 Indigenous Year of Indigenous Languages and focus on some critical points.

### 1. Linguistic Human Rights

#### i. Scope and Obstacles in their Realization

Language is an integral part of human nature. It is connected both to the individual and the collective identity of a person. It constitutes an important characteristic of a specific cultural and ethnic group and an important element of a group's cultural identity. Due to this significant character both for the individual and the group in which he or she belongs, it

becomes clear that linguistic rights must be considered as fundamental human rights and should be recognized, protected and promoted both through international and domestic law.

However, this notion has been widely contested and linguistic rights have never really been a central concern neither for states nor for the international community as a whole. Speakers of majority or dominant languages tend to fully enjoy their linguistic rights, however people belonging to minorities, indigenous people, migrants and refugees are commonly deprived of their linguistic rights and discriminated against on the grounds of language, as their languages - most of the times - do not enjoy official status and are less widely spoken in the countries in which they reside<sup>54</sup>. Therefore, they are considered linguistic minorities. Some minority linguistic groups such as the Kurds in Turkey are not allowed even to identify with their mother tongue<sup>55</sup>. As Skutnabb-Kangas and Phillipson mention, “*Speakers of more than 6000 languages are not entitled to education, nor to the administration of justice or public services through the medium of their mother tongue*”<sup>56</sup>. This is extremely common among indigenous communities, immigrants and refugees. Many states, with the excuse of integration into the dominant society, impose assimilation practices providing education only in the dominant language, while other states do not provide access to information or media in minority languages.

In the case of indigenous people, violations of linguistic rights can be considered as consequences of colonization and extended assimilation processes imposed over them. Colonization has resulted in the loss of indigenous cultures, knowledge and languages<sup>57</sup>. As mentioned in the previous chapter, breaches of the rights of indigenous people are still present today, including violations of their language rights. In the case of indigenous people, language should be considered as an integral element of their cultural heritage and must be preserved at all costs from assimilation processes. Indigenous movements have managed important gains the past few decades, leading to positive advancements on issues of high importance for them, such as land rights, autonomy and political organization. However, indigenous languages and rights connected to them have been largely neglected by the international community. Lately there have been attempts by international organizations to raise awareness and promote indigenous linguistic rights. For example, the United Nations

---

<sup>54</sup> Robert Phillipson, Mart Rannut and Tove Skutnabb-Kangas, *Linguistic Human Rights: Overcoming Linguistic Discrimination* (Walter De Gruyter & Co 1995), p. 13.

<sup>55</sup> *Ibid*, p. 71.

<sup>56</sup> *Ibid*.

<sup>57</sup> Libby Lee-Hammond and Elizabeth Jackson-Barrett, 'Indigenous Children's Linguistic Rights In The 21st Century: Intentions And Tensions In Practice' (51 *International Journal of Early Childhood* 2019), p. 301.

declared the year 2019 as the International Year of Indigenous Languages, in an attempt to promote revitalization of indigenous languages, many of which are considered to be on the verge of extinction.

In order to examine indigenous linguistic rights, a determination of the scope of linguistic human rights needs to be made. Skutnabb-Kangas and Phillipson consider linguistic human rights in connection both to mother tongue and other languages, defining mother tongue as “*the language(s) one has learned and identifies with*”<sup>58</sup>. In relation to other languages, linguistic human rights are the rights to learn an official language of the country one lives in<sup>59</sup>. Linguistic human rights have both an individual and a collective character. An individual linguistic right is the right to “*identify positively with one’s mother tongue*”, even if it is not the majority language, and for others to respect this identification<sup>60</sup>. This aspect can be related to the principle of non-discrimination. Non-discrimination on the grounds of language is actually included in many international legal instruments. A linguistic right is also the right to learn one’s mother tongue through an educational system that uses this mother tongue as a medium<sup>61</sup>. Therefore, simply teaching a mother tongue - as if it was a foreign language - is not enough, but instead, every person needs to have access to education through his/her mother tongue in order for him/her to fully achieve their linguistic rights. From that, the link between the enjoyment of linguistic rights and the right to education becomes clear, as we cannot consider the one without the other. In addition, at individual level a linguistic right is the right to use one’s mother tongue in several official contexts and the right to learn any of the official languages of the state in which one lives in<sup>62</sup>. The learning of at least one the official dominant languages of the state is essential for preventing marginalization of linguistic minorities and promoting their inclusion in the dominant society and their economic and social development. Regarding linguistic rights and education in a collective level, they include “*the right to enjoy and develop their language and the right for minorities to establish and maintain schools and other training and educational institutions, with control of curricula and teaching in their own languages*”<sup>63</sup>. Furthermore,

---

<sup>58</sup> Robert Phillipson, Mart Rannut and Tove Skutnabb-Kangas, *Linguistic Human Rights: Overcoming Linguistic Discrimination*, *op.cit.*, p. 71.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*, p. 2.

<sup>61</sup> Manuel Toscano Méndez, *Language Rights as Collective Rights: Some Conceptual Considerations on Language Rights*, (Res Publica: Revista de Filosofía Política, 27 2012), p. 112.

<sup>62</sup> Robert Phillipson, Mart Rannut and Tove Skutnabb-Kangas, *Linguistic Human Rights: Overcoming Linguistic Discrimination*, *op.cit.*, p. 2.

<sup>63</sup> *Ibid.*

representation in political affairs of the state and autonomy to manage internal matters, such as culture and education, are also related to collective linguistic rights<sup>64</sup>.

Heinz Closs makes a distinction between tolerance-oriented language rights and promotion-oriented language rights<sup>65</sup>. By tolerance-oriented language rights, he means the “*right to preserve one’s language in the private, non-governmental sphere of national life*”, such as the right to speak one’s native language in private and in public, to establish institutions where the language is being used and to incorporate first language teaching in private schools<sup>66</sup>. In this case, the engagement from the side of the state is relatively smaller, as these minority languages are not integrated into the public educational system. Mainly, state authorities have to refrain from interfering in the use of language and the teaching of minority languages in private schools. On the other hand, promotion-oriented language rights concern the recognition and promotion of linguistic rights by the state authorities in the public sector<sup>67</sup>. This includes the use of a minority language in various public institutions, including public schools. If promotion-oriented rights are interpreted broadly, they may include the recognition of minority languages in all levels and sectors of the public sphere<sup>68</sup>. This approach is wider as it requires from the state to adopt positive measures and inclusive language policies, providing sufficient funding, in order to fully realize linguistic rights for all the persons residing within its territory. Of course, the cases in which these promotion-oriented rights are fulfilled in the maximum for all people - including refugees and migrants, and other linguistic minorities – are quite rare.

The common notion of a nation-state adopted by a significant number of states around the world is an important obstacle to this realisation. Many governments consider the recognition of minority linguistic rights as detrimental to the national cohesion and the territorial integrity of the state. This is a rather old idea based on the need for social cohesion and state homogeneity that promotes a monolingual state policy in which all people living within the territory of the state must exclusively communicate in the national, official language<sup>69</sup>. These approaches can vary from state to state, from complete prohibition of the use of a minority language to partial use in the private sphere, and they have an impact in the

---

<sup>64</sup> Ibid.

<sup>65</sup> Stephen May, *Language Rights: The “Cinderella” Human Right* (10 Journal of Human Rights 2011), p. 266.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> Miklós Kontra and others, *Language: A Right And A Resource* (Central European University Press 1999), p. 105.

way specific states interpret international law regarding minority and indigenous rights<sup>70</sup>. This monolingual and subsequently monocultural approach encompasses anachronistic ideas of submission and assimilation of linguistic minorities to the dominant society and its language<sup>71</sup>. Furthermore, many times they can lead to segregation and marginalization of linguistic minorities and the extinction of the languages and cultural expressions of several minority groups and indigenous people. Another obstacle in the adoption of promotion-oriented language rights is the consideration that human rights are merely individual, a dominant idea in the era after World War II that was present in most human rights instruments adopted at the time<sup>72</sup>. The collective character of language is extremely important and should be taken into account when considering linguistic rights as, firstly, the existence of the community is necessary for their realization, and secondly, language is directly related to the culture of a specific group of people. Especially for achieving recognition of indigenous linguistic rights the collective character of language should be taken into account.

The abovementioned multiple dimensions of linguistic rights, their interrelatedness to other human rights, with the most important being the right to education, and the reluctance of most states to recognize and protect them, can only give us a blurry picture on the situation of linguistic rights today. It is evident that linguistic rights are still widely neglected in the context of international law, even though some improvements have been made in national level.

## ii. The Evolution of Linguistic Human Rights

As mentioned above, linguistic rights have never drawn important attention of the international community up to this day. Individual states tend to neglect them as most of them consider that a monolingual character of the state would contribute to social cohesion and economic growth. In addition, the fact that positive measures need to be taken in order to fulfil linguistic rights makes more states reluctant to adopt adequate policies that would promote linguistic equality.

---

<sup>70</sup> Stephen May, *Language Rights: The "Cinderella" Human Right*, *op.cit.*, p. 275.

<sup>71</sup> María E. Fránquiz, María G. Leija and Cinthia S. Salinas, *Challenging Damaging Ideologies: Are Dual Language Education Practices Addressing Learners' Linguistic Rights?* (58 Theory Into Practice 2019), p. 141.

<sup>72</sup> Stephen May, *Language Rights: The "Cinderella" Human Right*, *op.cit.*, p. 267.

Due to this reluctance, until today there is no international treaty that addresses exclusively linguistic human rights. In addition, the provisions that concern linguistic rights in other treaties are relatively limited and they are usually connected or included in the provisions that concern other rights, such as the right to education or the principle of non-discrimination. According to Joanna Osiejewicz, language is closely related to one of the most important principles of international law: human dignity<sup>73</sup>. She mentions that language does not merely facilitate communication, but “*expresses the cultural identity of the given user*”<sup>74</sup>. As language is an important element of human identity, and human dignity promotes the respect to one’s identity, therefore the principle of human dignity encompasses the respect for one’s language and linguistic diversity<sup>75</sup>. Therefore, there is an urgent need for clarifications on the content of linguistic rights and for further protection under international law, in light of the current violations of linguistic rights and the danger of extinction that several minority and indigenous languages face across the world. Despite this evident absence of linguistic rights in international law, there have been some relevant improvements.

Skutnabb-Kangas and Phillipson consider five different phases in the evolution of linguistic rights under international law. The first phase refers to the time before the year 1815, during which no reference is being made in linguistic rights in any international document, with references being made only in bilateral agreements<sup>76</sup>. The doctrine that dominated international law at the time was that of “one state, one nation, one language” leading states to adopt and implement monolingual policies within their borders<sup>77</sup>. However, this doctrine was not only limited within the territory of the states. Colonial states adopted monolingual policies in their conquest of foreign lands<sup>78</sup>. Colonizers brutally imposed their language onto the native people forbidding them to speak their own language and therefore violating their linguistic rights<sup>79</sup>. In fact, language was an extremely powerful and useful tool for colonizers to impose their beliefs and thoughts and to strengthen their power upon the natives. As language and culture are two codependent aspects of human identity, loss of language could consequently lead to a loss of culture. By forgetting their languages and

---

<sup>73</sup> Joanna Osiejewicz, 'Supranational Protection Of Language Rights In Universal And European Context' (17 Bajo Palabra 2017), p. 215.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> Robert Phillipson, Mart Rannut and Tove Skutnabb-Kangas, *Linguistic Human Rights: Overcoming Linguistic Discrimination*, *op.cit.*, p. 74.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Mohammad Khosravi Shakib, 'The Position Of Language In Development Of Colonization' (2 (7) Journal of Languages and Culture 2011), p. 117.

cultures people became more easily submitted and ruled. This period was also detrimental for the world cultural heritage as many languages and cultures were completely vanished in the process of a cultural and linguistic genocide by the colonial empires. This connection between language and colonization practices will be examined further below.

The second period of linguistic human rights starts from the year 1815 and the Final Act of Congress in Vienna<sup>80</sup>. Until then international law awarded rights only to religious minorities, but the Final Act of Congress in Vienna was the first one to include national minorities, which are therefore, most of the times, also linguistic minorities<sup>81</sup>. However, most multilateral treaties and constitutions at the time did not safeguard linguistic rights to minorities, with some minor exceptions. The third period is according to Skutnabb-Kangas and Phillipson the time between the two World Wars<sup>82</sup>. Multilateral and international conventions under the League of Nations addressed minority rights, and several national constitutions and the Peace Treaties of World War I awarded rights to linguistic minorities<sup>83</sup>. However, most states, especially powerful states, were reluctant to award rights to the minorities that were living within their territory and when a number of Baltic States proposed to the League of Nations international protection of minorities, their proposal was rejected by the Supreme Council<sup>84</sup>.

The fourth period that came after World War II and lasted until the 70s was marked by the creation of the United Nations and the adoption of several human rights related international instruments<sup>85</sup>. Despite the fact that following the atrocities of World War II, the international community attempted to recognize and safeguard human rights for all, minority rights were vastly neglected. Human rights were for everyone and therefore there was no need for further, more specified protection to minorities. In fact, in the final version of the Universal Declaration of Human Rights there is no reference to ethnic or national minorities, as at the time minority rights were still considered as an obstacle to national and international stability and as a source of conflict<sup>86</sup>. In this way linguistic rights were excluded in order for the international community to supposedly promote political and social cohesion. However,

---

<sup>80</sup> Robert Phillipson, Mart Rannut and Tove Skutnabb-Kangas, *Linguistic Human Rights: Overcoming Linguistic Discrimination*, *op.cit.*, p. 74.

<sup>81</sup> *Ibid*, p. 75.

<sup>82</sup> *Ibid*.

<sup>83</sup> *Ibid*.

<sup>84</sup> *Ibid*, p. 76.

<sup>85</sup> *Ibid*, p. 77.

<sup>86</sup> Stephen May, *Language Rights: The "Cinderella" Human Right*, *op.cit.*, p. 269.

as it can be proven by several movements, conflict does not come from the granting of rights, but instead from the non-granting of rights. In both the United Nations Charter and the UDHR, the only reference to language can be found in the prohibition of discrimination on the basis of language<sup>87</sup>. In addition, in Article 26 of the UDHR that concerns the right to education, there is no reference to language and its use in education. Therefore, there is neither direct protection to linguistic rights, nor indirect provisions for the offering of adequate education of and in one's mother tongue.

The International Covenant on Economic, Social and Cultural Rights is probably the instrument in which one would expect to meet provisions related to language, given the fact that language is a core value of one's individual and collective cultural identity. Despite neither the fact that the document contains an extensive article on education, no specific reference is being made on neither the language that has to be taught nor the language used as a medium of instruction. We presume that, according to Article 13, states only have the duty to provide education in the dominant, national language and not in minority languages. There is no reference to minority rights or linguistic minorities, and again language is only mentioned in relation to the principle to non-discrimination at in Article 2<sup>88</sup>. Therefore, ICESCR adopts a tolerant approach towards language users through the principle of non-discrimination, but without granting them any specific rights.

Article 27 of the International Covenant on Civil and Political Rights is an important step towards the recognition of minority rights and the use of languages:

*Article 27*

*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.<sup>89</sup>*

---

<sup>87</sup> UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <https://www.un.org/en/universal-declaration-human-rights/>

<sup>88</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

<sup>89</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, available at:

The Article not only grants linguistic minorities the right to freely use their own language but also imposes negative obligations on states in order not to interfere. In addition, the use of the term “*persons belonging to such minorities*” implies that except national minorities, IPs and immigrants are also included, as “minority” is interpreted in a numerical way<sup>90</sup>. However, the problem with this is article is that it is up to the states to decide whether they have ethnic, religious or linguistic minorities within their territory. From what have been mentioned above regarding the approach of individual states towards minorities at the time, it is obvious that most would be reluctant to recognize the existence of minorities. Therefore, the behaviour of the state would be an obstacle in the implementation of the provision and could result in several violations of minority rights. This gap in the provision was covered in 1994 with the adoption of General Comment No. 23 on the rights of minorities which removed from the states the power to determine whether a minority exists or not within its territory<sup>91</sup>. Regarding the scope of protection of Article 27, de Varennes in his review concluded that the article does not refer solely to the negative duty of the state to let linguistic minorities use their languages, but makes a connection to the right of minorities to “*establish, manage and operate their own educational institutions*”<sup>92</sup>. In his reasoning we see the link that exists between language and education and the importance of the educational system in the realization of linguistic minority rights. Furthermore, this idea implies that positive measures need to be taken on behalf of the state. This statement by de Varennes remains debatable as there is no such clear reference to education in Article 27. In the end it is up to the state to decide how to interpret this provision, even though narrower interpretations that grant minimum rights to minorities seem to be more common.

Another instrument with great significance for linguistic rights is UNESCO’s Convention against Discrimination in Education adopted in 1960, which according to Stephen May contains a promotion-oriented perspective on language and linguistic rights<sup>93</sup>. Fundamental human rights principles, such as non-discrimination, equality of opportunity and

---

<https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> [accessed 28 May 2020]

<sup>90</sup> Stephen May, *Language Rights: The “Cinderella” Human Right*, *op.cit.*, p. 270.

<sup>91</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, 8 April 1994, CCPR/C/21/Rev.1/Add.5, available at: <https://indianlaw.org/sites/default/files/resources/UN%20HCHR%20Comments%20on%20Article%2027.pdf> [accessed 28 May 2020]

<sup>92</sup> Fernand De Varennes, *Language, Minorities and Human Rights* (Kluwer Law International 1996), p. 158.

<sup>93</sup> Stephen May, *Language Rights: The “Cinderella” Human Right*, *op.cit.*, p. 272.

treatment, universal access to education and solidarity, are intertwined with the right to education in this Convention and its scope is still relevant to this day as its objectives are still not fully implemented<sup>94</sup>. The Convention covers a wide range of issues related to the right to education, and language is one of them. Article 2 recognizes the establishment and maintenance of separate educational systems and institutions for religious or linguistic reasons, if that is the wish of the parents or the legal guardians and on the grounds that this education is optional and relevant to the standards set by the authorities on education<sup>95</sup>. The most relevant article in relation to language is Article 5 which essentially grants national minorities the right to “*carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language*”<sup>96</sup>. The Convention takes the step to recognize the link between language and education and the need for minorities not only to learn their own language but also use it as a medium for their education. Nevertheless, the few lines following this provision set some restrictions in this minority right, claiming that this type of education must be compatible with the national standards and that it must not pose a threat to national sovereignty by preventing the minority students from enjoying the dominant culture and language. This restriction is understandable given the time in which this document was adopted and the fact that the focus on national sovereignty and negligence of minorities and their rights was a common state behaviour.

After examining the most important instruments of the fourth period in the evolution of linguistic rights in international law, I would like to refer to the last period that Skutnabb-Kangas and Phillipson examine, starting from the 70s. This is an important period for human rights in general and, as mentioned above, specifically for indigenous people. Significant advancements for minority rights took place as well, including linguistic minorities. However, in most human rights documents of the time linguistic rights are either expressed through other provisions such as the right to education and the prohibition of genocide, or related to specific groups such as minorities and indigenous people<sup>97</sup>. This negligence of linguistic rights in international law and the limited scope persists until today, with small

---

<sup>94</sup> Yves Daudet and Pierre Michel Eisenmann, *Commentary On The Convention Against Discrimination In Education (Adopted On 14 December 1960 By The General Conference Of Unesco)* (Unesco 2005), p. 67.

<sup>95</sup> UN Educational, Scientific and Cultural Organisation (UNESCO), *Convention Against Discrimination in Education*, 14 December 1960, available at: [http://portal.unesco.org/en/ev.php-URL\\_ID=12949&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html) [accessed 28 May 2020].

<sup>96</sup> *Ibid.*

<sup>97</sup> Robert Phillipson, Mart Rannut and Tove Skutnabb-Kangas, *Linguistic Human Rights: Overcoming Linguistic Discrimination*, *op. cit.*, p. 75.

advancements towards recognition mostly related to the gradual recognition of minority rights the past years.

The United Nations Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities was adopted by UNGA in 1992. The Declaration is an important step for the United Nations which did not include minority rights in its most powerful human rights instruments. Despite its non-binding character, it grants significant rights to minorities and imposes obligations to ratifying states. Some of the most important points are: the duty of the state to take measures to protect and promote minorities and their identity, the full participation of minorities in every aspect of life in the dominant society and the enjoyment of not only minority rights, but also of human rights and fundamental freedoms<sup>98</sup>. The Declaration makes specific reference to linguistic minorities in several parts starting from its title. Article 2 (1) grants to linguistic minorities the right to freely use their own language both in the public and the private sphere without any discrimination or interference. Basically, this article shifts the formulation “*shall not be denied*” from Article 27 of the ICCPR to “*have the right*”<sup>99</sup>. Article 4 (2) imposes to states the duty to take measures to assist minorities to “*to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards*”, while Article 4 (3) deals specifically with minority language education<sup>100</sup>. In fact, it mentions that states should take appropriate measures to ensure that persons belonging to minorities have access to education through their mother tongue and opportunities to learn it. Even though these provisions only work as recommendations for the Member States, the Declaration introduced the idea of the duty of the state to take positive measures to promote minority linguistic rights and minority education.

The European Charter for Regional or Minority Languages was created by the Council of Europe and adopted by the Committee of Ministers in 1992. Even though its scope is only regional, it is the first legal instrument on the protection of minority languages and one of the most important documents on linguistic rights, as it sets minimum standards on measures that need to be taken by the state parties to promote minority languages. The

---

<sup>98</sup> UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 3 February 1992, A/RES/47/135, available at: [https://www.ohchr.org/Documents/Issues/Minorities/Booklet\\_Minorities\\_English.pdf](https://www.ohchr.org/Documents/Issues/Minorities/Booklet_Minorities_English.pdf) [accessed 28 May 2020]

<sup>99</sup> Stephen May, *Language Rights: The “Cinderella” Human Right*, *op. cit.*, p. 274.

<sup>100</sup> UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, *op.cit*

Council of Europe, seeing the contribution of minority languages in the European cultural heritage and Europe's multiculturalism, aimed with this Charter to promote their protection and the rights of their users. As mentioned from the Preamble, the right to use a regional or minority language is considered an inalienable right and therefore, it deals with a wide range of distinct aspects of life linked to the usage and learning of a regional or minority language, such as education, judicial procedures, public services, media, cultural expression, and it imposes obligations to states in order to take positive measures<sup>101</sup>. Nevertheless, the Charter strongly emphasizes on the different conditions and local specificities of the European States and gives them the space to adapt the provisions of the Charter according to these specificities. In fact, states decide on which languages the provisions should apply while the Charter excludes application on dialects of the official language and immigrant languages<sup>102</sup>. The numerical value of a linguistic minority group is proportional to level of protection and promotion of linguistic and educational rights, as the Charter provides minimum protection to small linguistic groups and wider protection to larger groups, while some linguistic groups may not be protected at all, if the state decides so. Furthermore, as mentioned in Article 2, state parties are obliged to fully apply the provisions included in Part II of the Charter and only a limited number of the provisions in Part II<sup>103</sup>. More specifically, states have the right to choose to apply at least 35 paragraphs or sub-paragraphs from the provisions of Part III, while at least 3 of the 35 should refer to education. Therefore, despite the ambitious aim of this first document on minority languages, its power is weakened not only by the content and the wide discretion attributed to states, but also by the small amount of ratifications. Even though 33 European states have signed the Charter, only 24 have ratified it.

Another document relevant to linguistic minority rights created by the CoE is the Framework Convention for the Protection of National Minorities. The document is a general document on the protection of minorities within the European continent and addresses language and education rights. The Framework Convention follows the same rationale of the Charter, emphasizing on the enrichment of Europe's cultural diversity through the existence of minorities and imposing obligations on states for the protection of the rights of minorities within their territories<sup>104</sup>. The document deals with several aspects of life of minority groups,

---

<sup>101</sup> Council of Europe, *European Charter for Regional or Minority Languages*, 4 November 1992, ETS 148, available at: <https://rm.coe.int/168007bf4b> [accessed 28 May 2020]

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> Council of Europe, *Framework Convention for the Protection of National Minorities*, 1 February 1995, ETS 157, available at: <https://rm.coe.int/16800c10cf> [accessed 28 May 2020]

such as economic, cultural, social and political life, in order to ensure equality between the minorities and the dominant majority. Language is considered as an essential element of minority identity and therefore, states are obliged to create the ideal conditions for minorities in order to develop it, while they must not impose any assimilation policies or actions. As mentioned in the Commentary on the Provisions of the Framework Convention, “*the use of the minority language represents one of the principal means by which such persons can assert and preserve their identity*”<sup>105</sup>. The Framework Convention ensures the use of minority languages both in public and private sphere and in a wide variety of fields such as freedom of expression, administrative authorities, judicial procedures, use of surnames. In addition, it provides several educational provisions, most of them directly linked to minority culture and language. Article 12 affirms that states should take appropriate measures to foster the knowledge of the minority language through education, while Article 14 (1) recognizes the right of minorities to learn their own traditional language, even though this provision does not require any positive action on behalf of the state. Article 14 (2) states that in places within the state where minorities reside traditionally or where there is a large number of a specific minority population, the state should ensure the teaching of the minority language or the offer of education through the medium of the minority language, in case there is sufficient demand. This clause is very flexible as it provides the states with wide discretion by setting the condition of “*specific demand*”; while the phrase “*as far as possible*” implies that the measures taken by the state may be proportional to the available resources. Therefore, this clause weakens largely minority language education by putting numerical and geographical conditions, as well as the condition of demand. While the document is relevant to minority linguistic rights and provides a large number of provisions to ensure them, it leaves a remarkable level of discretion to the state parties which can be an obstacle in the implementation.

The most far-reaching document on linguistic rights is the Universal Declaration of Linguistic Rights. In the 1996 World Conference on Linguistic Rights that was held in Barcelona, PEN Club International and several other associations, NGOs and institutions concerned on the matter of linguistic rights created and signed the Declaration. Representatives from all over the world and therefore speakers of many different languages, as well as many experts in the fields of law, languages and sociolinguistics participated in the drafting of this long and inclusive document. Its creators aimed that the document would

---

<sup>105</sup> Ibid.

contribute to the United Nations and it would gain a position equal to the Universal Declaration of Human Rights, obliging states to recognize the linguistic rights of the individuals and the linguistic communities living within their territory. In addition, they hoped in the creation of a normative body within the United Nations system to universally defend linguistic rights. In this direction, in 1996 they presented the document to the Director-General of UNESCO, in order to examine and approve it, and subsequently submit it to UNGA. While the Director-General was supportive to the Declaration from the beginning of the drafting, the UNESCO General Conference in 1977 did not approve the Declaration, while the second, briefer version of the Declaration, with a focus on individual rights, that was presented in 1998 to the UNESCO Executive Council was not approved either<sup>106</sup>. The powerful position of the Declaration, to which its creators aimed, was never gained. The main reason for this was that the content of the Declaration was too far-reaching and disturbing for the states which “*would have to agree to its processing and official proclamation*”<sup>107</sup>. Indeed, the document affirms equality between all languages without exception and recognizes both individual and collective linguistic rights. It provides several definitions of concepts related to the preservation of linguistic rights such as *linguistic community*, *native language* and *linguistic group*, in order to make the provisions clearer and implementation easier. Despite the fact that the document did not manage to gain the status that its creators wanted, the inclusive and detailed content and the innovative framework that it provides, “*has a potential to help overcome the difficulties associated with the narrowing treatment of minorities with regard to language rights.*”<sup>108</sup> Certainly, this is a very inclusive document which, if it gained the status in which the drafters aimed, it would widely and positively ensure and promote linguistic rights in a global level.

The Universal Declaration on Cultural Diversity was adopted by the General Conference of UNESCO in 2001. Article 1 of the Declaration stressed the importance of cultural diversity mentioning: “*This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is*

---

<sup>106</sup> Marí Isidor, 'Globalisation And Linguistic Rights: Towards A Universal Framework Of Linguistic Stability' [2006] Transfer 1 <[https://lull.cat/IMAGES\\_175/transfer01-foc03.pdf](https://lull.cat/IMAGES_175/transfer01-foc03.pdf)> accessed 28 May 2020, p. 78.

<sup>107</sup> Ibid.

<sup>108</sup> Joanna Osiejewicz, 'Supranational Protection Of Language Rights In Universal And European Context', op. cit., p. 224.

*for nature*”<sup>109</sup>. The document stresses the importance of human rights as guarantees of cultural diversity and affirms that cultural rights are integral part of human rights. Regarding the issue of language, Article 5 states that all persons have the right to express themselves and create work in the language of their choice, and of course their mother tongue, that education and training must be provided in respect to one’s cultural identity, and that all persons are free to participate in their cultural life and practices<sup>110</sup>. In the case of education, the document might guarantee an education that is compatible to one’s cultural identity, an element extremely relevant to indigenous education; however it does not make explicit reference to teaching of one’s mother tongue or use of one’s mother tongue as a means of instruction. Complementary to this Declaration, the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted in 2005 by the UNESCO General Conference in Paris, is a legally binding international instrument that promotes cultural diversity and considers it as an integral part of human rights. According to the Preamble of the Convention, “*linguistic diversity is a fundamental element of cultural diversity*”, while at the same time education plays a “*fundamental role in the protection and promotion of cultural expressions*”<sup>111</sup>. The Convention recognizes the importance of language as a part of the cultural integrity not only of a specific group, but of humanity as a whole and affirms the interrelatedness between education and cultural preservation, and consequently linguistic preservation, promotion and protection.

Linguistic human rights are included in several human rights documents, both in legally binding instruments and soft law documents. For sure, there is still room for advancement and a need for the adoption of a legally binding document that would specifically address linguistic rights. As mentioned above, the last few decades there have been some improvements in the recognition and protection of minority rights, which have been widely neglected for many years. This evolution in minority rights has contributed to an enhanced level of recognition of linguistic rights, mostly in connection with the right to education of minorities. However, the lenient character of most of these documents that address minority rights and the reluctance of most states to recognize the existence of

---

<sup>109</sup> UN Educational, Scientific and Cultural Organisation (UNESCO), *UNESCO Universal Declaration on Cultural Diversity*, 2 November 2001, available at: <https://www.refworld.org/docid/435cbcd64.html> [accessed 7 August 2020]

<sup>110</sup> Ibid.

<sup>111</sup> UN Educational, Scientific and Cultural Organisation (UNESCO), *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, 20 October 2005, available at: [http://portal.unesco.org/en/ev.php-URL\\_ID=31038&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html) [accessed 7 August 2020]

minorities within their territory, considering them a threat to their territorial integrity and sovereignty, have not allowed any special protection to these groups. Linguistic rights of indigenous people should be considered separately, as in international law there is clear distinction between minorities and indigenous people.

## 2. The Dichotomy between Minorities and IPs

Before addressing indigenous linguistic rights, it is important to make a reference to the distinction between the status of indigenous people and minorities in international law, as it is necessary for understanding the different approach regarding their rights. The line to distinguish these groups of peoples can be quite blurry and it can lead to misperceptions and false interpretations of their rights.

As De Varennes mentions, in a strictly numerical approach, indigenous people may be considered minorities within a state<sup>112</sup>. However, that is not always the case, as in many countries IPs might also constitute the majority. IPs most of the times are subjected to the political domination of a dominant majority, a recognizing feature of minorities<sup>113</sup>. However, indigenous people tend to distinguish themselves from minorities, considering that the status of a minority is far more limited than that of indigenous people and that it can be destructive to their claims<sup>114</sup>. It is true that IPs not only enjoy a wider spectrum of rights but also engage actively and have more access to decision-making bodies on issues that concern them<sup>115</sup>. The principle of prior consent on behalf of indigenous people regarding decisions that may affect them and the active contribution of indigenous representatives in several institutions and UN mechanisms, such as the Working Group on Indigenous Populations and the drafting procedure of the UNDRIP, prove this slightly more powerful place of indigenous people in international law. Despite the blurry picture between the two terms, the dominant idea among the international community is that they are two distinctive terms that cannot be used interchangeably.

---

<sup>112</sup> Fernand De Varennes, 'Minority Aspirations And The Revival Of IPs' (42 International Review of Education 1996), p. 311.

<sup>113</sup> Ibid.

<sup>114</sup> Miriam J. Aukerman, 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context' (22 Human Rights Quarterly 200), p. 1013.

<sup>115</sup> Ibid, p. 1012.

Following the definition for IPs included in the ILO Convention No. 169, they are tribal peoples with distinctive social, cultural and economic organization and conditions from the national community, having specific customs and traditions that define their status<sup>116</sup>. This might not be the case for minorities, as most of the times minorities, though distinctive, are more integrated in the national community and do not have such a different cultural and economic organization. Indigenous people's demands are not based on their numerical minority status against a dominant majority, but on their distinct political and social characteristics as a sovereign community that has been oppressed by a majority<sup>117</sup>. The Preamble of the Universal Declaration on the Rights of Indigenous People clearly states the distinctive characteristics that the term "indigenous" encompasses and mentions that "*inherent rights of indigenous peoples derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies*"<sup>118</sup>. Indigenous people are not just numerically different from the dominant majority, but their differences have their roots in their different political and social organization and cultural heritage. They claim, among others, the right to self-determination as distinctive sovereign nations, the distinctive political and social organization and the preservation of their cultures<sup>119</sup>. Self-determination is a principle deeply connected to the status of indigenous people, and justified by the UNDRIP through the different cultural identity, vulnerability and historical background of these people<sup>120</sup>. Indigenous people have been oppressed by colonization processes and their consequences for decades and self-determination can be seen as a remedy to internal colonization and historic injustices, and as a way of emancipation<sup>121</sup>. In addition, the United Nations used self-determination as a means for achieving decolonization<sup>122</sup>. Due to the principle of self-determination, IPs enjoy a wider variety of rights than minorities, such as the right to autonomy and self-government, prior consent and

---

<sup>116</sup> International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169, article 1, paragraph 1 (a).

<sup>117</sup> Fernand De Varennes, 'Minority Aspirations And The Revival Of IPs', *op. cit.*, p. 311.

<sup>118</sup> UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295*, available at: <https://www.refworld.org/docid/471355a82.html> [accessed 8 August 2020]

<sup>119</sup> Miriam J. Aukerman, 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context', *op. cit.*, p. 1020.

<sup>120</sup> *Ibid.*, p. 1033.

<sup>121</sup> *Ibid.*

<sup>122</sup> Jeremie Gilbert and Joshua Castellino, 'Self-Determination, IPs And Minorities' (3 *Macquarie Law Journal* 2003), p. 158.

control over decisions that affect them<sup>123</sup>. Since under ICCPR only peoples are entitled to the right to self-determination, minorities have been excluded from the scope of this right. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities does not make any reference to the principle of self-determination, focusing on the protection of the territorial integrity of the state<sup>124</sup>. Minorities are still seen by a number of states as a threat to the territorial sovereignty and therefore, they are only entitled to internal and not external self-determination under the ICCPR<sup>125</sup>. However, regarding minorities, even internal self-determination is an issue of debate<sup>126</sup>.

Another characteristic that justifies the dichotomy between IPs and minorities is the attachment of IPs to specific geographical territories<sup>127</sup>. The ILO Convention No. 169 definition states that IPs are descendants from populations that inhabited a country or a geographical region before and during colonization, and who continue to maintain own social, economic, cultural and political institutions<sup>128</sup>. While groups of minorities, especially national minorities, may also be attached to the land in which they reside, they do not have a historical connection with it that predates colonization. In addition, the relationship between indigenous people and their land is part of their cultural identity and the maintenance of this connection is important for the preservation of their culture<sup>129</sup>. According to Special Rapporteur Martinez Cobo, indigenous people do not perceive their land as merely a possession, but in fact they hold a strong spiritual relationship with it, as it is essential for their survival and the maintenance of their beliefs, customs, traditions and culture<sup>130</sup>. Due to this strong link and the historic injustices of colonization and dispossession of their lands, IPs in international law are entitled to the right to control their lands, territories and natural resources, a right that is not given to minorities. Minorities may be linked to their lands but not in a spiritual level and not in a way that they are essential elements for their existence<sup>131</sup>. It is true that both minorities and indigenous people are considered by most states as sources

---

<sup>123</sup> Miriam J. Aukerman, 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context', *op. cit.*, p. 1033.

<sup>124</sup> Jeremie Gilbert and Joshua Castellino, 'Self-Determination, IPs And Minorities', *op. cit.*, p. 165.

<sup>125</sup> Miriam J. Aukerman, 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context', *op. cit.*, p. 1035.

<sup>126</sup> Jeremie Gilbert and Joshua Castellino, 'Self-Determination, IPs And Minorities', *op. cit.*, p. 161.

<sup>127</sup> Miriam J. Aukerman, 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context', *op. cit.*, p. 1038.

<sup>128</sup> *Ibid*, article paragraph 1(b).

<sup>129</sup> *Ibid*.

<sup>130</sup> *Ibid*, p. 1039.

<sup>131</sup> Miriam J. Aukerman, 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context', *op. cit.*, p. 1039.

of threat to their territorial integrity and the idea of a homogenous nation-state. However, due to the fact that most indigenous people do not have kin states, they are not considered as risky as minorities, and especially national minorities, for internal security and territorial integrity of the state<sup>132</sup>. That is why states are usually more reluctant in recognizing minority rights.

Both groups are characterized by a continuous vulnerable position and repression by a specific majority. However, IPs are considered victims of the most unjust treatment due to the colonization processes of exploitation, assimilation, segregation, dispossession of lands, forced removals and many more. Reparations for historical injustices and past wrongs for IPs are widely accepted in international law and mentioned in international documents. Therefore, an important factor that differentiates indigenous people and minorities is the criterion of historical continuity with pre-colonial communities and ancestral lands<sup>133</sup>. Colonialism did not only contribute to the destruction of a large number of indigenous cultures, but continues to have consequences in their everyday life. It becomes clear then that indigenous people must always be understood in connection with colonialism and its consequences and as distinctive groups of people that require reparations for past wrongs and injustices. Collective rights of indigenous people are widely accepted by the international community in several international documents, while minority rights are mostly considered as individual rights<sup>134</sup>. After the atrocities of World War II, during the emergence of the human rights system and the drafting of several human rights documents, minority rights were not addressed at all, as individual rights were considered sufficient for applying to minorities as well. Even to this day, this individualistic approach to minority rights is present. Indeed, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities lacks a collective dimension of rights<sup>135</sup>.

This distinction between indigenous people and persons belonging to minorities is present in the United Nations system as well with separate Working Groups for each issue and separate documents with distinctive content and sets of rights<sup>136</sup>. It is important to mention that, despite the more advantageous position of indigenous people in international law in general, both the Declaration on the Rights of Persons Belonging to National or

---

<sup>132</sup> Ibid, p. 1040.

<sup>133</sup> Ibid, p. 1013.

<sup>134</sup> Ibid, p. 1022.

<sup>135</sup> Miodrag A. Jovanovic, 'Recognizing Minority Identities Through Collective Rights' (27 Human Rights Quarterly 2005), p. 628.

<sup>136</sup> Miriam J. Aukerman, 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context', *op. cit.*, p. 1019.

Ethnic, Religious and Linguistic Minorities, and the Declaration on the Rights of IPs are not legally binding documents. This distinction is important for understanding the different approaches and perspectives towards IPs and minorities not only in international but also in domestic level.

### 3. Indigenous Linguistic Rights

#### i. Language as a Tool to Facilitate Colonization

Colonizers perceived the existence of natives as an obstacle to their settlement and the expansion of their empires<sup>137</sup>. They used several methods to control and subordinate these groups, such as enslavement, forced labor, forced removals, dispossession of lands and resources. Indigenous groups used to possess very specific, distinguishing and unique cultural characteristics that were completely different and unknown for the newcomers. Clearly, colonizers, coming from a completely different cultural background, were unable to understand most of the indigenous cultural characteristics, such as the spiritual relation to land, their rituals and of course, their languages. There was a tendency among them to consider indigenous cultures and way of life as primitive and of no value, while promoting assimilation as a way of “doing a favor” to these peoples by “civilizing” them<sup>138</sup>. As De Varennes mentions, in the case of “*refusing to relinquish their identity and assimilate into "higher levels" of "civilization", aboriginal peoples were dismissed as an inferior and unequal species whose rights could be trampled on with impunity.*”<sup>139</sup>. By the time, from the early 19<sup>th</sup> century, colonizing powers started limiting extermination practices and focused on imposing their sovereignty on IPs through assimilation procedures, by changing their cultural identities<sup>140</sup>.

As I have mentioned above, language is an important element of the cultural identity of a specific ethnic group. This group can be a majority group within a state, a minority or for colonized regions, an indigenous group. The realization of the significance of language in the

---

<sup>137</sup> Fernand De Varennes, 'Minority Aspirations And The Revival Of IPs', op. cit., p. 312.

<sup>138</sup> Ibid, p. 313.

<sup>139</sup> Fernand De Varennes, *L'article 35 de la Loi constitutionnelle de 1982 et la protection des droits linguistiques des peuples autochtones*, (1994 National Journal of Constitutional Law), p. 274.

<sup>140</sup> Ibid.

collective identity of a group led colonialists to the tactic of using language as a tool to enable colonization and assimilation of the native peoples in the New World. Language was used as a cultural element for colonizers to impose their power on these natives and transmit their culture, beliefs and norms<sup>141</sup>. This imposition of language led to the weakening of the common culture and collective sentiments of indigenous groups, therefore leading to their gradual subordination to the colonial powers. This way, they managed to strengthen their political colonial power. Through the loss of their language and their common culture, eventually indigenous people would lose their identity. In simple terms, language, and consequently education, was used as a means to remove the characteristic cultural identity from IPs, making them more vulnerable and easier to manipulate and handle by the colonial powers. This monolingual and monocultural approach by colonial states promoted passivity, acceptance and therefore, assimilation of the natives to a “higher” and “more progressive” civilization<sup>142</sup>. The replacement of the native tongues by a common, colonial language diminished the threats for a homogenous nation state, for which indigenous cultures were problematic<sup>143</sup>.

This process of loss of culture through the loss of language was expressed in different ways, such as the systematic prohibition of the use of native languages and the forced imposition of colonial languages at schools, the invalidation of the subordinate language and the punishment to indigenous children for using their native language<sup>144</sup>. All these practices led to lingual and cultural erosion and a linguistic sovereignty. In the United States, English speaking teachers were hired in order to assimilate indigenous children and the use of their native language was completely forbidden at school<sup>145</sup>. As Skutnabb-Kangas mentions, in the case that children broke the rules and accidentally spoke their mother tongue, teachers used to beat them up or wash their mouths with soap<sup>146</sup>. As mentioned in *Indigenous Peoples and Boarding Schools: A comparative Study*, in countries such as Canada, Australia and New Zealand during the 19th and 20th century, indigenous children were forcibly removed from their homes and communities and they were sent to boarding school as a way to “address the

---

<sup>141</sup> Mohammad Khosravi Shakib, 'The Position Of Language In Development Of Colonization', *op. cit.*, p. 117.

<sup>142</sup> María E. Fránquiz, María G. Leija and Cinthia S. Salinas, 'Challenging Damaging Ideologies: Are Dual Language Education Practices Addressing Learners' Linguistic Rights?', *op. cit.*, p. 141.

<sup>143</sup> Fernand De Varennes, 'Minority Aspirations And The Revival Of IPs', *op. cit.*, p. 314.

<sup>144</sup> *Ibid*, p. 117.

<sup>145</sup> *Ibid*, p. 313.

<sup>146</sup> Tove Skutnabb-Kangas, *Bilingualism Or Not* (Multilingual Matters 1981), p. 309.

”Indian” problem”<sup>147</sup>. According to these policies, in order for IPs to reach the level and status of the dominant society, they had to give up their indigenous identity culture. In Latin America, the use of Guarani and other indigenous languages was completely banned in schools and students were punished once using them<sup>148</sup>. According to the study of the UN Special Rapporteur, Martinez Cobo, colonizers based these educational policies on the idea that indigenous languages, as well as indigenous cultures, were weak and primitive, and that they were expected to eventually disappear, as a consequence of the internationalization and the evolution of civilization and technology<sup>149</sup>. Therefore, they did not need to teach these languages, not use them as a medium for providing instruction to indigenous children<sup>150</sup>.

This linguistic imposition was not always as clear and direct as measures of prohibition of the use of indigenous languages. Especially during the post-colonialism era, an attempt for an “*unconscious changing of culture*” was noticed as a way to achieve subordination<sup>151</sup>. Direct interference in the language and identity was no longer a method, but European powers used other ways, such as the media and arts, to prove the inferiority of the natives’ cultures and therefore give legitimacy to their imperialism<sup>152</sup>. The idea was that, through presenting a twisted and weak picture of indigenous cultures and languages in connection with the alleged impossibility for these cultures to adapt to modern society and the evolution of technology, the natives would gradually reject it and try to incorporate this western, European, “advanced” culture to their identities. Natives would feel blessed as beneficiaries from this advanced universal civilization and the West would not be considered imperialists or conquerors, but as saviors of the “uncivilized” peoples<sup>153</sup>. In the case of language, the West was promoting the colonial language as superior and indigenous languages and cultures as “humble”, subconsciously leading indigenous people to the desire to give up one of the most characteristic elements of their identity: their native language<sup>154</sup>. Due to this propaganda that the West was providing, IPs would start to gradually reject their languages, firstly, in a personal, individual level and later in a collective level, accepting the

---

<sup>147</sup> Permanent Forum on Indigenous Issues, *Indigenous Peoples and Boarding Schools: A comparative Study*, (United Nations Economic and Social Council 2009), p. 3.

<sup>148</sup> Fernand De Varennes, 'Minority Aspirations And The Revival Of IPs', *op. cit.*, p. 313.

<sup>149</sup> José R Martínez Cobo, *Study Of The Problem Of Discrimination Against Indigenous Populations* (United Nations 1987), p. 11.

<sup>150</sup> *Ibid.*

<sup>151</sup> Mohammad Khosravi Shakib, 'The Position Of Language In Development Of Colonization', *op. cit.*, p. 119.

<sup>152</sup> *Ibid.*

<sup>153</sup> *Ibid.*

<sup>154</sup> *Ibid.*, p. 120.

colonial language as the only alternative to ensure their existence into this new, constantly changing modern society.

Antonio de Nebrija has stated: “*Language has always been the perfect instrument of empire*”. Indeed, in the process of colonization, but also later on, language, along with religion, has been the most imposed element on subordinated nations. It was an extremely useful tool for colonizers to ensure their political base, through the gradual erosion of the cultural identity of the natives. This is also proven by the amount of indigenous languages that are considered “extinct” or on the verge of extinction and the small numbers of native speakers of these languages. However, linguistic and religious assimilation was never fully complete and colonized peoples continue to use their native languages, which in fact have worked as tools of empowerment for indigenous movements.

## ii. Indigenous Linguistic Rights and Indigenous Education in International Law

Given the significant position of language in the cultural integrity of different indigenous communities and the enrichment of linguistic diversity and humanity’s cultural heritage, linguistic and educational rights are included in all hard and soft law documents that address indigenous rights. Following the theoretical framework of the introductory part of this work, below, I will go through the advancements regarding linguistic rights in indigenous-specific documents and examine the relevant provisions from several international and regional documents.

Starting from the ILO Convention No. 107, Part VI of the Convention *Education and Means of Communication* addresses at the same level the issue of education and language. Article 21 ensures that all members of indigenous populations have equal opportunities to access all levels of education as the national majority. This provision is extremely important as it applies the principle of equality of indigenous populations in the context of education. However, Article 22 brings back the focus to the main aim of the Convention No. 107 which is assimilation of IPs. It mentions that educational programs for the indigenous populations “*shall be adapted, as regards methods and techniques, to the stage these populations have reached in the process of social, economic and cultural integration into the national community*”<sup>155</sup>. This paternalistic approach implies that indigenous populations are not as advanced as the rest of the national community economically, socially and culturally, and

---

<sup>155</sup> International Labour Organization (ILO), *Indigenous and Tribal Populations Convention, C107, op. cit.*

thus they need education programs to assimilate and integrate to the national majority, considering indigenous populations as inferior to it<sup>156</sup>. This assimilationist approach, for which ILO Convention No.107 has been highly criticized, continues with Article 24 that mentions that the aim of primary education should be the adoption of skills and knowledge that will contribute to the integration of children to the national community. However, Article 25 states that educational measures should be taken to eliminate prejudices that may occur in the dominant society towards indigenous populations. Concerning the use of their languages, Article 23 (1) affirms that indigenous children should be taught to read and write in their mother tongue, or if this is not possible, in the language most commonly used in their community. However, Article 23 (2) is contradictory to the idea mentioned in the previous provision, as it states that “*Provision shall be made for a progressive transition from the mother tongue or the vernacular language to the national language or to one of the official languages of the country*”<sup>157</sup>. Focusing again on the integration of the populations to the national majority, this provision verifies that the state has the power to progressively impose the national language of the majority or the official national language to the indigenous populations. Even though paragraph 3 of the same Article guarantees the preservation of the mother tongue of these populations, indigenous languages are again considered inferior to the official language of the state and the language of the majority. This approach by states could be detrimental for the preservation of indigenous languages and initiate justified violations of the rights of IPs regarding language and education.

As ILO Convention No. 169 moves away from this assimilation approach, we can identify improvements regarding the right to education and the use of indigenous languages. This Convention follows the same form as the previous Convention No 107, including all the education and language provisions in Part IV *Education and Means of Communication*. The Convention maintains the principles of equality and non-discrimination in the field of education. Article 27 (1) mentions the importance of the participation of IPs in the development of their education programs and the incorporation of their histories and knowledge, as well as their value systems and their social, economic and cultural aspirations. This is an important improvement compared to the ILO Convention No. 107, as it recognizes the importance of indigenous culture and contributes to its preservation. The concept of inferiority that we saw in the respective Article on education in ILO No 107 is no longer

---

<sup>156</sup> Klaus Dieter Beiter, *The Protection Of The Right To Education By International Law* (Martinus Nijhoff 2006), p. 311.

<sup>157</sup> International Labour Organization (ILO), *Indigenous and Tribal Populations Convention, C107, op. cit.*

present. Paragraph 2 of the same Article is equally important as it mentions the responsibility of the state to offer specific training to the members of indigenous communities in order to develop their educational programs on their own, and therefore become in charge of the education of their communities. Lastly, paragraph 3 mentions the right of IPs to form their own educational institutions and the obligation of the state to provide them with the appropriate resources to do so, as long as “*the institutions meet the minimum standards established by the competent authority in consultation with these peoples*”<sup>158</sup>. Again, the participation of IPs in the educational context is ensured. The content of Article 27 is extremely important, as nowadays the right of indigenous people to control their educational systems is commonly accepted by the international community. In Article 29 the aim of education to indigenous groups is shifted from integration, to full and equal participation to their own and their national community. Article 31 follows the same rationale as Article 25 of the ILO No 107, regarding the elimination of prejudices through educational measures, but moves a step forward mentioning examples of such measures, such as correction of textbooks in order to avoid wrong portrayal and stereotypes against IPs<sup>159</sup>. Regarding the recognition and the use of indigenous languages, the Convention is innovative as well, as it adds the possibility for the adoption of measures in case the teaching of an indigenous language is not practicable. However, the Article does not recognize the right to receive education in the indigenous language but only to learn to read and write in an indigenous language<sup>160</sup>. In Article 28 (2) there is no longer reference to the transition to the national official language, but a guarantee that IPs are offered the opportunity to gain fluency in the national language. Lastly, Article 28 (3) goes a step forward mentioning the importance of preservation and promotion of indigenous languages through the adoption of adequate measures.

Despite the important developments in the content of the right to education in ILO No 169, UNDRIP introduced more innovative concepts. First of all, Article 14(1) mentions the full establishment and control over their educational systems in their languages, on the basis of their cultural methods of education. The importance of this provision is most of all that it takes into account the indigenous methods of education that could be completely distinctive from the educational methods of the majority population, in an attempt to embrace

---

<sup>158</sup> International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169, *op. cit.*

<sup>159</sup> Sedfrey M. Candelaria, ‘Comparative Analysis On The ILO Indigenous And Tribal Peoples Convention No. 169, UN Declaration On The Rights Of IPs (UNDRIP)’, *op. cit.*, p. 55.

<sup>160</sup> Klaus Dieter Beiter, *The Protection Of The Right To Education By International Law*, *op. cit.*, p 312.

indigenous self-determination in education<sup>161</sup>. In addition, the offering of education in their own language, not only recognizes the equal value between indigenous and national languages, but also contributes to the effective protection of indigenous culture<sup>162</sup>. Another improvement is the reference to the adoption of measures to facilitate the participation of IPs living outside the communities to an education in their own language and according to their own culture. This provision was mostly added to tackle the issue of forcible removals of indigenous children from their communities, a practice that has led to the damage of their indigenous identity and a cultural genocide<sup>163</sup>. Therefore, this provision is extremely important for the preservation of the indigenous languages and cultures even outside the community and ensure that people living outside the community's territory, but who identify themselves as indigenous, can have access to it and enjoy their common cultural heritage. Article 15 recognizes the cultural dignity and diversity of IPs regarding their education and the need of appropriate measures that will tackle discrimination towards them. Indigenous languages are mentioned in several provisions in the UNDRIP, mostly related to the right to education as mentioned above. Extremely important is the recognition of the right of IPs to revitalize, use, develop and transmit several specific characteristics that they own, including their language, in Article 13. These four acts can greatly contribute to the preservation of indigenous languages. In addition, Article 16 mentions the right of IPs to establish their own media in the own languages. In this way, IPs that are not bilingual and do not speak the dominant language of the state, can have equal access to receiving, creating and disseminating information.

The last document whose provisions I would like to examine regarding linguistic rights is the American Declaration on the Rights of IPs. This document has many similarities to the UNDRIP, such as guaranteeing collective rights. The use of their tongues and languages is recognized as a collective right in this Declaration and as a part of their right to cultural identity and integrity<sup>164</sup>. Following the same discourse as the UNDRIP, Article XIV of the American Declaration recognizes the right of IPs to “*preserve, use, develop, revitalize and transmit to future generations their own histories, languages, oral traditions, philosophies, systems of knowledge, writing and literature*”, and to maintain their typical

---

<sup>161</sup> Lorie Graham and Amy Van Zyl-Chavarro, *Education, Media, And The U.N. Declaration On The Rights Of Indigenous Peoples* (Carolina Press 2018), p. 16.

<sup>162</sup> Klaus Dieter Beiter, *The Protection Of The Right To Education By International Law*, *op. cit.*, p 311.

<sup>163</sup> Lorie Graham and Amy Van Zyl-Chavarro, *Education, Media, And The U.N. Declaration On The Rights Of Indigenous Peoples*, *op. cit.*, p. 15.

<sup>164</sup> Organization of American States, American Declaration on the Rights of IPs, Article V, *op. cit.*

indigenous names<sup>165</sup>. The same Article guarantees the use of indigenous languages in the media, while at the same time mentioning: “states, in conjunction with indigenous peoples, shall make efforts to ensure that those peoples can understand and be understood in their own languages in administrative, political, and judicial proceedings, if necessary through the provision of interpretation or by other effective means”<sup>166</sup>. Approaching education, the same way as the UNDRIP the American document recognizes the right of IPs over their educational systems and the duty of the states to ensure that indigenous children have access to an education compatible to their languages and cultures. An addition to this context is the duty of the state to promote intercultural education that embraces indigenous cultures, languages, values and ways of life. The last reference to indigenous linguistic rights and a significant addition can be found in Article XVII on Indigenous Family. Specifically, paragraph 2 mentions that in the processing of cases of custody, adoption and severance of family ties, the courts must take into consideration the best interest of the child, a concept that should incorporate and take into account the child’s right to, among others, enjoy his/her own culture and use his/her own language. In this light, courts shall not take decisions that might limit the child’s right to his/her specific characteristics that accompany the indigenous cultural heritage.

To conclude, in the abovementioned indigenous-specific documents there are several references to indigenous education, the teaching of indigenous languages and the usage of indigenous languages as a medium for providing education. Probably the most important element is the introduction of the right of IPs to control and participate in establishment of their educational systems and institutions, as this way they can ensure not only the teaching of their languages, but also a type of education that is compatible to their cultural background. IPs can therefore transmit their values, customs, beliefs and languages to the next generation through their educational systems. These improvements in international level have been achieved by the increased demands expressed through several indigenous movements, mostly in Latin America.

---

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

### iii. United Nations 2019 International Year for Indigenous Languages

Despite the importance of legal instruments to the preservation and promotion of indigenous linguistic rights, the UN system, understanding the contribution of indigenous cultures to world's heritage, recently has proceeded in other actions of non-legal nature. In the light of the high risk to which minority languages, and specifically indigenous languages, are exposed today, as a result of colonization and assimilation processes as well as globalization, UNGA proclaimed, with its resolution 71/178, the year of 2019 as the International Year of Indigenous Languages. It becomes clear that there is a direct link between the preservation and revitalization of indigenous languages and the promotion of indigenous linguistic rights.

The primary aim behind this initiative was to raise awareness on the alarming extinction rates of indigenous languages nowadays and the importance of their preservation for maintaining our global cultural heritage through linguistic diversity, while contributing to the realization of indigenous rights on a universal scale. In this context, the UN realizes that languages play a vital role, not only to communication between the population of a specific community, but also to their “*common identity, cultural diversity, spirituality, social integration, sustainable development and reconciliation*”<sup>167</sup>. At the same time, the interdependence between linguistic rights and other fundamental rights and freedoms, such as freedom of thought, freedom of expression and opinion and access to education and information is highlighted as well<sup>168</sup>. Regarding IPs, the intergenerational transmission of indigenous mother tongues also transmits indigenous knowledge and culture, which is essential for understanding one's common indigenous identity. In addition, indigenous languages contain characteristic concepts of their spirituality, which help us understand the environment and can contribute to reinforce the achievement of 2030 Agenda for Sustainable Development<sup>169</sup>. Motivated by the increased loss of indigenous languages, due to assimilation, forced relocation, marginalization, migration and discrimination towards IPs, the United Nations called for immediate action through the creation of synergies and collaborations between different actors, such as member states, IPs' representatives, UN agencies and UN mechanisms that address indigenous issues, civil society, academia and the

---

<sup>167</sup> Permanent Forum on Indigenous Issues, *Action Plan for Organizing the 2019 International Year of Indigenous Languages* (<https://en.iyil2019.org/>, 2018), available at: <https://en.iyil2019.org/wp-content/uploads/2018/09/N1804802.pdf>, p. 2.

<sup>168</sup> Ibid.

<sup>169</sup> Ibid, p. 3.

public and private sector. However, the most important responsibility is that of member states by ensuring that IPs have the right to use, preserve and develop their languages and by complying to the standards guaranteed in the UNDRIP.

UNGA awarded to UNSECO the responsibility to handle the process of implementation of the IYIL, in collaboration with a Steering Committee that was established for the organization of the IYIL. As mentioned in the Action Plan for the IYIL, the main principles behind the International Year was the participation and engagement of IPs, an important principle for the fulfillment of indigenous rights in general, the geographical and gender balance and the equality of opportunities, as well as an inclusive approach to disability<sup>170</sup>. The actions that took place in the framework of the IYIL were organized into three thematic areas. The first one concerned support to revitalization and maintenance of indigenous languages. 89 activities took place to guarantee more materials, content and services to encourage and facilitate the use and proficiency in indigenous languages, by increasing financial allocations by member states to this aim<sup>171</sup>. 70 activities were held on the second thematic area of preservation of indigenous languages through improvements to the access to education and information systems for indigenous children and the use of language technology and communication, as well as information mechanisms. Regarding the promotion thematic area, 264 activities took place in mainstreaming core indigenous values, customs and knowledge to make people more aware of the significant role of indigenous cultures to world's cultural heritage and diversity, and the need for their preservation<sup>172</sup>. Within 2019 more than 800 activities took place in 78 countries, organized by institutions on different levels. The Action Plan document for the IYIL mentioned 15 different types of activities that would take place throughout the year, including international conferences and meetings, advisory and expert committees, training courses, exhibitions and other artistic performances, traditional sport events and games, and online events, among others<sup>173</sup>. Furthermore, important studies on the issues that concern indigenous languages have been carried out by independent researchers from around the world, through a global call for

---

<sup>170</sup> Ibid, p. 7.

<sup>171</sup> Permanent Forum on Indigenous Issues, *Summary Report On The International Year Of Indigenous Languages* (United Nations Economic and Social Council 2019) <<https://undocs.org/en/E/C.19/2020/9>> accessed 16 June 2020, p. 7.

<sup>172</sup> Ibid, p. 8.

<sup>173</sup> Permanent Forum on Indigenous Issues, 'Action Plan For Organizing The 2019 International Year Of Indigenous Languages' (<https://en.iyil2019.org/>, 2018) <<https://en.iyil2019.org/wp-content/uploads/2018/09/N1804802.pdf>> accessed 16 June 2020, p. 14.

research papers on the issue. The IYIL also included an extended communication strategy, in order to promote the activities and events to the public worldwide.

The active participation and collaboration of several governmental, non-governmental and independent actors on international, regional, national and local level within the IYIL resulted in the proclamation of an International Decade of Indigenous Languages for the years 2022-2032 by the General Assembly's resolution 74/135. This proclamation is an important step to the benefit of IPs and the preservation of their languages in the coming years, as the UN perceives "*the critical loss of indigenous languages and the urgent need to preserve, revitalize and promote indigenous languages and to take urgent steps at the national and international levels*", as mentioned in Resolution 71/135. The Los Pinos Declaration, the outcome document of the closing event for the IYIL, "Making a Decade of Action for Indigenous Languages", held in Mexico City on February, addresses the main key points of the International Decade and sets its main objectives, principles, considerations and guidelines.

### CHAPTER III – INDIGENOUS MOVEMENTS AND LANGUAGE REFORMS IN LATIN AMERICA: THE CASES OF BOLIVIA AND MEXICO

In this final chapter of the present work, I will examine the emergence of two indigenous movements, the Bolivian Cocaleros and the Mexican Zapatistas, which resulted to the empowerment and visibility of IPs in both these countries. Specifically, I will address the events and political changes that led to the emergence of these movements, as well as the consequences and the positive advancements that they brought to the recognition of indigenous languages, the guaranteeing of linguistic rights and the bilingual education system in these two states. In the first place, I will examine the Cocaleros movement in Bolivia, which consequently led to the election of the first indigenous President, Evo Morales. I will examine the reforms and changes that took place before the rise of Morales in power in the fields of language and education. Lastly, I will refer to the reforms that Evo Morales' government brought mostly in terms of recognition of indigenous languages in the context of the plurinational and pluriethnic state of Bolivia. In the second part of this chapter, I will examine the Zapatista indigenous movement that commenced in the province of Chiapas, Mexico in 1994. I will start again with giving the historical context regarding IPs in Mexico and the political advancements that led to the uprising. Then, I will examine the linguistic policies that preceded the movement and the consequences that the Zapatistas' extensive demands on language and education brought to the status of linguistic rights in Mexico. I will also analyze the status of autonomy of the *campesinos* in Chiapas and their distinct educational system.

## 1. The Cocaleros of Bolivia

### i. IPs in Bolivia

According to the 2012 National Census, 41% of the Bolivian population over the age of 15 were of indigenous origin, however it is estimated that this percentage has increased since then<sup>174</sup>. It is believed that IPs in Bolivia actually constitute half the total population of the state.

In fact, the Bolivian Constitution recognizes the existence of 36 different IPs. These peoples can be divided geographically. The first and most populated category is the one that resides in the Andes, the highlands of the country, with the biggest indigenous groups being the Quechua-speaking peoples, with a percentage of 49,5%, and the Aymara-speaking peoples, with a percentage of 40,6%<sup>175</sup>. In the lowlands of the country, there are several different groups that identify themselves as indigenous, such as Chiquitano and Guarani, constituting the other 34 recognized IPs<sup>176</sup>. Despite the fact that IPs in Bolivia have been living mostly in the rural areas of the country, during the last decades there is strong presence of indigenous people in the urban centers as well due to internal relocation. During the long history of colonization by the Spanish empire, and later on, despite the fact that indigenous populations in Bolivia are significant in number, they have been dominated, marginalized and discriminated against, by different political elites. These elites had one common ground: the notion that the “backward” Indians were inferior to their European-oriented ideals. Therefore, indigenous groups in Bolivia, belonging to the lower working classes and the rural sector, have been deprived of their rights for centuries.

The Spanish conquest in the mid-16<sup>th</sup> century completely destroyed the Quechua-speaking Incan empire that was established in the Andes at the time, and the *ayllus* – old traditional forms of indigenous organization – were deconstructed by the conquerors into smaller units, in order to facilitate control over them. In Bolivia, the Spanish used the same policies as elsewhere. Intensifying the *mita system* of forced labor, the Spaniards exploited the indigenous, by sending them to the mines in Potosí, in order to work for the crown

---

<sup>174</sup> Leonardo Tamburini, 'Indigenous World 2019: Bolivia - IWGIA - International Work Group For Indigenous Affairs' (*Iwgia.org* 2019)

<sup>175</sup> *Ibid.*

<sup>176</sup> *Ibid.*

extracting silver with very low or sometimes no salary. The *encomienda* system granted rights to the colonizers over the Indians and their lands, expropriating their lands and enslaving them. In the end of the 16<sup>th</sup> century, the lands that were under the *encomienda* system could be transformed to private property, completely removing IPs from their rights over the lands, and leaving them dependent on their owners. Indigenous communities have started becoming fragmented, as the peoples have come to believe that their cultures were inferior and primitive, in an attempt by the conquerors to integrate and assimilate the IPs into their own ways. The invasion and conquest of Spain by Napoleon's forces in 1807 and the liberal reforms that he imposed, led to a wave of uprisings in Latin American colonies and the construction of new sovereign, independent nations. In the case of Bolivia, this happened in 1825, after the revolution led by José de Sucre and Simon Bolivar, from whom the Bolivian state got its name. It is true that, despite the fact that IPs have been the most neglected and unfairly treated part of the population during the colonial years, in this revolution that was led by white elites IPs did not make part<sup>177</sup>.

The independence did not bring consequent social justice and relief to IPs, whose rights continued to be violated and neglected by the political forces that followed. White elites continued to control the country in a new form of governance, but in an old, well-known form of oppression against the indigenous. The Constitution of the Republic of Bolivia that was established in 1826 was discriminatory towards people of indigenous identity, as its *Chapter II - of Bolivians (XIV)* excluded them from citizenship, as only literate people with property had the right to citizenship. At the same time with the emergence of Creole white elites in power, foreign investors started showing an interest in the lands and natural resources of Bolivia, given a global growth in the mining industry<sup>178</sup>. In 1874, the Law of Expropriation abolished completely the *ayllus* and imposed new taxes to indigenous people<sup>179</sup>. In the same context, *Pongueaje*, a new type of forced labor, now controlled by the Creole elite, emerged. Indigenous people were again forced to work to be compensated with their means of subsistence. At the same time, foreign and nation private companies continued with a different type of colonization, through the conquest of lands and natural resources, cheap labor and exploitation of mines and oil reserves. IPs were still sent to mines, factories and plantations, and if they refused, they were jailed or murdered. Furthermore, the republic elites blamed the IPs for their backwardness and adopted policies in order to achieve their

---

<sup>177</sup> Maral Shoaie, *MAS And The Indigenous People Of Bolivia* (University of South Florida 2012), p. 13.

<sup>178</sup> *Ibid*, p. 15.

<sup>179</sup> Marcia Stephenson, *Gender And Modernity In Andean Bolivia* (University of Texas Press 1999), p. 74.

assimilation. Indigenous people had to deny and leave behind their identities and cultures in order to integrate and be considered Bolivian citizens, leading to an erosion of their cultures and their communities. Their living conditions worsened as a result of the loss of their communal lands and the cultural fragmentation within their communities.

Due to this systematic exploitation and loss of lands indigenous empowerment started appearing in the 1900s. The Chaco War, a dispute with Paraguay over an oil field and control over the Chaco Boreal river, brought issues of land, economy and Indigenous cultures into the forefront<sup>180</sup>. As a result, new political parties were created, with the Movimiento Nacional Revolucionario (MNR) being the stronger one. In this context, indigenous people started becoming more involved into the political scene, as MNR became more popular among the lower classes. At this point they started forming alliances with other higher classes of the Bolivian society in order to claim their economic, political and social rights<sup>181</sup>. The Bolivian Revolution of 1952 against state control and exploitation of lands and resources led MNR to power, with wide support by the indigenous and labor unions. It seemed at that point that MNR's government would benefit the indigenous. Indeed, MNR eliminated the "qualified vote" and the *Pongueaje* labor system. However, the decades that followed the Revolution of 1952 were characterized by extremely neoliberal economic policies that increased unemployment and poverty rates, with IPs being one of the most discriminated parts of the Bolivian society. The National Revolution of 1952 made significant attempts to incorporate IPs into the society, by giving voice to their organizations and labor unions, however the economic and social reforms that took place afterwards sustained their disadvantageous position in the Bolivian society.

The military coup of 1964, led by Vice President Barrientos, brought an era of political instability in Bolivia, with a 20-years period of changing military dictatorships. This period was detrimental for indigenous people as well, due to the economic instabilities, foreign investments and attempts to weaken the demands of the IPs<sup>182</sup>. The continuing repression and exploitation, together with the economic instability of these times, led to popular protests, and the emergence of the Katarista and other indigenous movements. These movements aimed to the return to popular democracy, supporting indigenous demands and reinforcing civil society. Neoliberal measures and policies, such as privatizations and

---

<sup>180</sup>Maral Shoaie, *MAS And The Indigenous People Of Bolivia*, op. cit., p. 17.

<sup>181</sup> Ibid, p. 18.

<sup>182</sup> Ibid, p. 20.

attempts to eliminate coca production, created discomfort among the IPs, who considered cultivation of coca as part of their culture and an important means for their subsistence<sup>183</sup>.

Gonzalo Sánchez de Lozada, who was elected President of Bolivia under the MNR in 1993, made important reforms in favor of the IPs, in particular during his first term. In 1994 he presented the Popular Participation Law, motivating social organizations to participate in the decisions regarding the use of resources and decentralizing 20% of state budget and distributing it to 300 municipalities<sup>184</sup>. This Law was extremely important as it gave the local communities, including indigenous communities, the right to form their own governments at local level, gaining their right to autonomy and self-governance. In addition, with the 1996 Agricultural Reform Law he introduced a mechanism for communal land titling<sup>185</sup>. However, the most significant reform during Lozada's term was, after pressure by the IPs, the revision of the Constitution in 1994 which recognized Bolivia's multiethnic and pluricultural character. This was an important step to the recognition of the rights and demands of indigenous people, in a time that they were starting to gradually gain back their rights in participation and autonomy. However, these decisions and reforms in the Constitution proved to be hollow and of no significant result, as they were accompanied by other neoliberal economic policies that specifically infringed indigenous rights.

From the late 1990s, the Bolivian indigenous movement started using several means of protest in order to show its discontent towards the neoliberal government policies, such as marches, strikes and road blockades. The economic and anti-drug policies severely affected the indigenous people of Bolivia, for whom cultivation of coca was an important part of their culture. Privatizations, and a general increase in foreign investments, by European and US corporations, due to the universal rise of globalization, were additional reasons for indigenous resistance<sup>186</sup>.

---

<sup>183</sup> Ibid, p. 21.

<sup>184</sup> Ann Chaplin, *Social Movements In Bolivia: From Strength To Power* (45 Community Development Journal 2010), p. 350.

<sup>185</sup> Maral Shoaie, *MAS And The Indigenous People Of Bolivia*, op. cit., p. 22.

<sup>186</sup> Ibid, p. 29.

## ii. The Emergence of the Cocaleros

There are several political changes that led to the emergence of the Cocaleros in Bolivia, but mostly due to neoliberal governmental policies. The emergence of the movement started around the 80s, mostly through the organization of the Cocaleros that have been working and living in Chapare. In this area, as well as in Yungas, the communities have been traditionally cultivating and harvesting the coca leaf. For Quechua and Aymara populations of the country, the coca leaf is an essential part of their culture, as they have always been using it for their rituals and for medical purposes, while at the same time its cultivation, for a big part of these communities, is the only way to make ends meet. The closing of many state mines, due to the drastic neoliberal reforms, that started from 1985, left many miners jobless, and led many of them, sometimes whole unions, to immigrate in other regions in order to seek their means of subsistence. Many of them immigrated to Chapare and started cultivating and harvesting the coca leaf as an alternative<sup>187</sup>. These miners, who continually faced neoliberal policies and unjust reforms, brought together to Chapare their well-structured social organizations, as well as notions and methods of resistance to the oppressing government policies<sup>188</sup>. These tactics that the miners brought into the highlands inspired the Cocaleros in their struggle to fight for their rights and resist governmental policies.

After the return to democracy in 1982, the Bolivian government asked for assistance from the US to reform its economy, and then the US government put pressure to Bolivia to start of a so-called *Drug War*<sup>189</sup>. President Hernan Siles Zuazo who was ruling during the period 1982-1985 introduced a program for the eradication of coca. From the very beginning, these attempts found a strong opposition and resistance by the coca producers, who feared they would lose their only source of income, the same way miners did. In order to express this discontent towards the government, the Cocaleros used the methods that have been introduced to them by the workers and the miners, such as road blockades and strikes<sup>190</sup>. The *Drug War* continued and in 1988 *Ley del Régimen de la Coca y Sustancias Controladas* was introduced. This was a turning point for the Cocaleros movement, as the Law created three zones for the production of coca. In the first one, the area of Yungas, cultivation and use of

---

<sup>187</sup> Ann Chaplin, *Social Movements In Bolivia: From Strength To Power*, op. cit., p. 349.

<sup>188</sup> Sárka Malá, *El movimiento "cocalero" en Bolivia durante los años 80 y 90: sus causas y su desarrollo*, (15:20 Esboços: histórias em contextos globais 2009), p. 103.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid.

the coca leaf was legal for traditional purposes. The second category, the area of Chapare, was characterized as area “in transition” (“en transición”). There, there was a surplus in crops of coca due to the global demand for narcotics; however, these crops would be substituted with other types of legal crops. In the third category, which included the rest of Bolivia’s territory, coca production was completely illegal. As it was expected, the law provoked huge criticism and resistance by the Cocaleros, especially in the region of Chapare. From the presidency of Jaime Paz Zamora until 2004 policies against coca cultivation have contributed to marginalization of the Cocaleros, but also in the creation of a strong opposition and resistance towards these policies. They strengthened their political organization and started creating their own Federations, while at the same time radicalizing their fight through marches, road blockades and self-defense committees, using wooden clubs and dynamite to fight back<sup>191</sup>. However, it seemed that in order to effectively gain their rights back and demand social justice, they needed to properly organize as a political power.

The 1994 Law of Popular Participation definitely gave social movements the opportunity to further empower themselves and organize to raise their voices. Social organizations now had the channels to claim their demands on local and consequently on national level. This improvement increased indigenous confidence and empowerment, as they started sending their own candidates in elections, first as part of other parties, and then through the formation of their own<sup>192</sup>. The Cocaleros took advantage of this advancement and in 1995; they co-founded the Instrumento Político por la Soberanía de los Pueblos, that would later become what we know today as the political party Movimiento al Socialismo, which would be the political instrument for the introduction of indigenous *campesinos* in the political scene Bolivia<sup>193</sup>. Through IPSP they started gaining political power, firstly at local level, however with the creation of the Asamblea de los Pueblos, in 1995 and the internal election of Evo Morales as the leader of MAS-IPSP, the Cocaleros gained control over the political instrument, therefore it would be easier for them to claim their rights at national level. The years that followed were marked by a period of social conflicts and political unrests, due to governmental policies and actions that aimed to privatization and exploitation of the natural resources. During this period, MAS was considered as the main opposition

---

<sup>191</sup> Ibid.

<sup>192</sup> Ann Chaplin, *Social Movements In Bolivia: From Strength To Power*, op. cit. ,p. 351.

<sup>193</sup> Leonidas Oikonomakis and Fran Espinoza, *Bolivia’s MAS and its actual relation with the movements that brought it to state power*, in Richard Stahler-Sholk, and Harry E Vanden, *Rethinking Latin American Social Movements: Radical Action From Below* (Rowman & Littlefield Publishers 2014), p. 13.

power to these governmental tactics<sup>194</sup>. In both the Water War in Cochabamba against the privatization of water, in 2000, as well the Gas War, against the exportation of the state's natural gas to the US through Chile in 2003, the Cocaleros, other IPs, as well as trade unions took a leading role.

Eventually, the election of Evo Morales as President of Bolivia in 2005, the first indigenous President in the country, was an important step for these social movements for claiming their rights and for ensuring their engagement and participation into the Bolivian political scene. Indeed, the huge representation of popular movements into the first ministerial formation under the governance of Morales came to guarantee the increased significance that the new government would bring to indigenous', workers' and *campesinos*' demands<sup>195</sup>. However, the following years, governmental policies, and especially the 2007 replacement of these representatives from the ministerial formation and the lack of popular participation into governmental planning and policy-making processes, would prove otherwise, creating criticism towards the government by the same people that supported it to come to power<sup>196</sup>.

### iii. Educational and Linguistic Reforms in Bolivia before the Rise of the Movement

In a society as diverse as Bolivia, that includes a wide number of cultures and languages, bilingual and multicultural education is extremely important for promoting social inclusion and preserving these diverse cultures and languages through transmission to the new generations. In addition, due to its past as a colonized country, many inequalities regarding access to education have existed throughout the years, especially against people living in the rural areas, the majority of which are indigenous. Indeed, many schools in the rural areas have been abandoned by the authorities for decades, while at the same time providing education at elementary schools only in Spanish, in the context of policies of

---

<sup>194</sup> Ibid, p. 14.

<sup>195</sup> Ibid, p. 18.

<sup>196</sup> Ibid, p. 19-21.

aggressive Castilianization<sup>197</sup>. These practices made school extremely overwhelming for indigenous children that entered elementary education without speaking a word of Spanish.

Even after the independence of the country from Spain, colonial practices continued in the Bolivian society, including the sector of education<sup>198</sup>. Educational policies included “erasing indigenous languages, communal memories, traditions, and identities”<sup>199</sup>. Indigenous education appeared for the first time in Bolivia in the early 30s, however, as these initiatives were contradictory to the state’s assimilation processes, it was not implemented effectively. The Education Act of 1955 came to recognize the right to education for everyone within Bolivia. Certainly, this was an improvement; however it would not change significantly IPs’ status, as education policies continued to focus on assimilation and monolingual practices. During the military regimes in the country there was no space for diversity and therefore bilingual education was neglected. When democracy returned to Bolivia, National Literacy and Popular Education (SENALEP) agencies were created in order to deal with the exclusion of IPs on cultural and linguistic level<sup>200</sup>. After the ratification of the ILO Convention No. 169 by Bolivia, significant advancements towards the recognition of indigenous rights occurred. In the educational sector, an important step was made in 1992 with the Supreme Decree 23 036 that formalized Intercultural Bilingual Education with a strong focus on indigenous people, while between 1988 and 1994 the Bolivian Ministry of Education and Culture collaborated with UNICEF in order to implement the Intercultural Bilingual Education Project, regarding the most dominant indigenous languages, Quechua, Aymara and Guarani, in more than 100 schools across Bolivia<sup>201</sup>. This project started planting the seeds for the educational reform that followed in 1994.

The 1994 Educational Reform Law 1565, passed by the administration of Sanchez de Lozada, introduced for the first time in Bolivia the Intercultural Bilingual Education. Bolivia was officially recognized as a pluricultural and plurilingual country<sup>202</sup>. It was an important step for recognizing the educational needs of the indigenous people living in the rural areas and moving forward to closing the gap in access to education. It was an extremely ambitious

---

<sup>197</sup> 'Why Education Reform Alone Won'T Save Bolivia's Indigenous Languages' (Worldpoliticsreview.com, 2017)

<sup>198</sup> Joëtta M. Zoetelief, *Teachers and intercultural education reform in Bolivia* (Universiteit van Amsterdam 2013), p. 35.

<sup>199</sup> Ibid.

<sup>200</sup> Manuel E. Contreras and María Luisa Talavera Simoni, *The Bolivian Education Reform, 1992-2002* (2nd edn, Education Reform and Management Team, Human Development Network - Education, World Bank 2003), p. 1.

<sup>201</sup> Ibid.

<sup>202</sup> Joëtta M. Zoetelief, *Teachers and intercultural education reform in Bolivia, op. cit.*, p.36.

plan and certainly brought significant changes in every aspect and level of education. It focused greatly in teachers' training, especially regarding intercultural and bilingual education<sup>203</sup>. The project was supported financially by the World Bank and other foreign donors<sup>204</sup>. Bolivian schools in the areas where mostly IPs resided, started offering education in Quechua, Aymara and Guarani for the first time, while introducing textbooks and educational material in all three languages<sup>205</sup>. The adoption of the Popular Participation Law the same year had significant impact on education, as with the creation of the new municipalities and the decentralization of power, these new municipalities became responsible for the administration of their schools<sup>206</sup>. Furthermore, the adoption of this Law led to the creation of participatory councils at municipal level, in which parents could have a say in their children's education<sup>207</sup>. In the case of indigenous people, this advancement is extremely important as participation in the matters that affect them is one of the basic principles regarding IPs' rights, while at the same time education is necessary for continuing their cultural identities.

Of course, in order to preserve these cultural identities, education should not only include indigenous language learning, but also other elements of indigenous culture. However, it seems that the 1994 Education Reform gave a lot of focus on the bilingual aspect, and not that much on the intercultural one<sup>208</sup>. Indigenous cultures include manifestations, such as rituals, beliefs and music, which were not incorporated into this new form of bilingual education. Of course, these aspects cannot be not as easily adopted and introduced to the educational system, as a different language, given the fact that they require structural changes in the core of the system, which is mainly based on the dominant way of education that has been in place for years. The rapid adoption and implementation of the 1994 reform apparently did not leave any space for reevaluating and reforming these aspects, which however would be necessary for achieving the multicultural goal of this reform. Surely, the bilingual goal was more successful. Another problematic element of this reform was that it did not take into account neither indigenous people nor educators<sup>209</sup>. It was a

---

<sup>203</sup> Manuel E. Contreras and María Luisa Talavera Simoni, *The Bolivian Education Reform, 1992-2002*, *op. cit.*, p. 1.

<sup>204</sup> Joëtta M. Zoetelief, *Teachers and intercultural education reform in Bolivia*, *op. cit.*, p. 36.

<sup>205</sup> Manuel E Contreras and María Luisa Talavera Simoni, *The Bolivian Education Reform, 1992-2002*, *op. cit.*, p. 1.

<sup>206</sup> *Ibid*, p. 17.

<sup>207</sup> *Ibid*.

<sup>208</sup> *Ibid*, p. 40.

<sup>209</sup> *Ibid*.

reform imposed from above and therefore it could not fully incorporate the needs of the students and the teachers. During the designing procedure participation of different actors and communities was really weak, while the implementation procedure moved way too fast, without ensuring a gradual transition to the new system<sup>210</sup>. Furthermore, the extremely ambitious character of the reform and the radical changes that it brought resulted in the opposition by the teachers' unions. In the beginning of the implementation process indigenous parents seemed quite skeptical to the new bilingual form of education, mostly because, as there was a significant delay in the preparation of the textbooks for Spanish as a second language, for almost four years students were only being taught in Quechua, Aymara or Guarani respectively<sup>211</sup>. This situation raised concerns among the indigenous communities, as parents were afraid that if their children were not being taught the dominant language of the state, they would eventually be excluded from social and economic development.

The focus that the Reform has given on the rural areas has reduced the inequalities and the gap between rural and urban areas<sup>212</sup>. However, despite the advancements in bilingual education, except from Spanish, also in Aymara, Quechua and Guarani, many other indigenous languages that have always been spoken in the territory of modern Bolivia, were greatly neglected, as well as their communities. Furthermore, the Constitution still only recognized Spanish as its official language, despite the strong presence of indigenous people and the advancements in bilingual education. During the first years of the 90s we notice a rise in indigenous and anti-globalization movements all across Latin America, revolting against all neoliberal policies that the central governments followed. In this context, a wide opposition towards the 1994 Education Reform was evident, as the project was seen as part of a wider neoliberal policy<sup>213</sup>. Partly, that was due to the fact that it was sponsored and imposed by foreign, private powers in the exterior of the country. Therefore, even though in some places indigenous people had access in education in their mother tongues, intercultural education was still far from being properly implemented.

---

<sup>210</sup> Ibid, p. 60.

<sup>211</sup> Ibid, p. 38.

<sup>212</sup> Ibid, p. 58.

<sup>213</sup> Joëta M. Zoetelief, *Teachers and intercultural education reform in Bolivia, op. cit.*, p. 36.

#### iv. Evo Morales in Power: Towards Decolonizing Language and Education

The collapse of the elite party in 2003, as a result of the continuing indigenous resistance towards the government's neoliberal policies, was marked by the election of Evo Morales, leader of the Six Federations and later of MAS. The extensive decolonizing and indigenous rights discourse developed by the first indigenous Aymara President of Bolivia, created sentiments of hope in all IPs across the country. These sentiments were empowered when Morales included a big number of indigenous people from different backgrounds and social movements of the past into his governmental formation. Evo Morales has made several times, in his political speeches, the connection between indigenous language empowerment and decolonization.

However, despite the fact that language and education had an important place in his political discourse, it was not until his second term that he started making radical changes in these two sectors. During the first term, the government was occupied with its attempts to make structural changes in the political, legal and economic regime established by the previous neoliberal governments<sup>214</sup>. These were imperative changes that needed to be made and it is therefore for this reason that shifts in education and language policies were neglected in the beginning. During the second term, the government took important initiatives towards language revitalization, strengthening the institutions and creating more educational material in indigenous languages, while at the same time introducing a new Education Law in 2010, recognizing indigenous knowledge and equal opportunities in education<sup>215</sup>. Despite the fact that the 1994 Education Reform recognized indigenous languages in the educational sector, it was severely criticized by Morales as only promoting bilingualism and not having a comprehensive intercultural approach<sup>216</sup>. The status of Spanish as the only official language of Bolivia contributed to further marginalization and invisibility of IPs and their languages. This would change with the 2009 Constitution which recognized Bolivia as a plurinational state. Consequently, cultural and linguistic plurality was recognized as inherent characteristics Bolivia, provided by different indigenous communities that have lived in that territory for centuries. Even from Article 1 we realize that according to the new constitution, language will have an important place into this new, plurinational state. Indeed, 13 mentions

---

<sup>214</sup> Bret Gustafson, *Oppressed No More? Indigenous Language Regimentation In Plurinational Bolivia* (2017 International Journal of the Sociology of Language 2017), p. 32.

<sup>215</sup> Joëta M. Zoetelief, *Teachers and intercultural education reform in Bolivia*, op. cit., p. 37.

<sup>216</sup> Ibid, p. 36.

to language are being made in the current constitution, including the prohibition of discrimination on the basis of language, but with the most important being Article 5 which recognized, alongside with Spanish, all 36 indigenous languages spoken in Bolivia as official<sup>217</sup>. In addition, Article 5 states that the governmental departments should use two official languages: Spanish and the indigenous language that is being spoken by the community residing in the specific territory. Lastly, an important element that must be highlighted regarding this new Constitution is that it was adopted after a constitutional referendum, therefore having the approval by the majority of the Bolivian society, including indigenous people.

Except from the new Constitution of 2009, the Education Law that was adopted the following year (Ley 070) and the 2012 Law on Linguistic Rights and Policies further addressed issues of linguistic rights and bilingual education. The main aim of this Education Law was to “*further institutionalize bilingual education*”<sup>218</sup>. The introduction of bilingual education with the 1994 Education Reform proved to be insufficient as it was forced from above and it was accompanied by neoliberal policies in other sectors of life that affected the indigenous, such as economy. This new education law wanted to fulfill the aim of bilingual and multicultural education in the context of a decolonization process. In addition, the law established the creation of Institutes of Language and Culture for every Indigenous “nation” or “people”, which were officially created by the 2012 Decreto Supremo. These institutes, together with the educational councils, gave the power to IPs to organize themselves and develop their cultures and languages in their own ways. The 2012 Law on Linguistic Rights and Policies (Ley General de Derechos y Políticas Lingüísticas 269) came after strong demands by the linguistic networks for equality in terms of language in the public sphere<sup>219</sup>. Indeed, this Law recognized and protected individual and collective linguistic rights of all Bolivians, while obligating all public authorities to comply with them. The Law is extremely inclusive to linguistic rights, including provisions that address access to media in all official languages of the state, education in one’s mother tongue, indigenous participation in designing and implementing linguistic policies, use of official languages in all public administration and private entities of public service, and many more. In addition, the Law makes explicit reference to the protection and promotion of all official languages as well as

---

<sup>217</sup> Bret Gustafson, *Oppressed No More? Indigenous Language Regimentation In Plurinational Bolivia*, op. cit., p. 32.

<sup>218</sup> Ibid, p. 43.

<sup>219</sup> Ibid.

languages in danger of extinction. Law 269 is the most significant document that addresses linguistic rights in Bolivia and gives wide protection to IPs who have been marginalized and discriminated against on the basis of their language for centuries.

Despite the fact that the Cocaleros movement did not specifically include linguistic rights in their initial claims, the rise of the Cocalero Aymara Evo Morales into power brought significant reforms into the field, proving that promotion and protection of indigenous rights was of high importance for his government. The Constitution of 2009 was probably the most important advancement, as it gave equal status to all indigenous languages spoken within the territory of Bolivia.

## 2. The Mexican Zapatistas

### i. IPs in Mexico

The situation of IPs in Mexico is considered one of the most complex ones in the Americas mainly due to large size of the country, the huge population and the great diversity that exists in the country. Mexico has the highest number of indigenous populations within its territory, and “*the highest level of linguistic diversity in the world*”<sup>220</sup>. Evidently, the existence of these diverse identities and the governmental policies that have been neglecting the Indians for years, have created a complicated situation that led indigenous groups in gathering and creating movements in order to claim their rights. Before examining in detail the Zapatista uprising and the changes that it brought for indigenous communities in Chiapas and around Mexico, it is important to examine the evolution of the status of IPs in the country.

Before the arrival of the Spaniards two dominant native cultures were present in Mexico: the Aztec empire that extended from the Gulf of Mexico to the Pacific Ocean, and the Mayans, who were residing in the area from the Honduras up to the southern end of Mexico, the province of Chiapas and the Yucatan peninsula<sup>221</sup>. Especially, within the Aztec

---

<sup>220</sup> Terborg et al., *The Language Situation in Mexico*, in Richard B Baldauf Jr. and Robert B Kaplan, *Language Planning And Policy In Latin America, Vol. 1: Ecuador, Mexico And Paraguay* (1st edn, Multilingual Matters LTD 2006), p. 115.

<sup>221</sup> *Ibid*, p. 118.

empire different cultures and languages were present, as multiple indigenous groups were residing within the empire's territory. These civilizations were extremely rich and, despite the decades of colonization, parts of them have remained intact until today. The significance of these diverse cultures to the world's cultural heritage is present until today, given the fact that millions of tourists visit Mexico each year to visit the archeological sites of these rich cultures. When the Spanish arrived, they came across some rich natural resources and civilizations that have been advancing in these lands<sup>222</sup>. However, despite the fact these cultures were more advanced compared to other indigenous cultures that the Spanish have encountered during their conquest, they were still considered as backward and primitive according to their European-centered standards. This notion, combined with the thirst of the Spanish empire for profit, led to extreme policies of extermination, exploitation, subjection and assimilation of the indigenous people of Mexico. The population of IPs had decreased significantly, leading to a consequent loss of more than a hundred indigenous languages<sup>223</sup>. Despite the fact that Spanish was imposed as the main language in most sectors, many conquerors learnt indigenous languages in order to negotiate and communicate properly with the Indians. In addition, many of them, especially intellectual Spanish colonists studied these languages and created grammars and dictionaries<sup>224</sup>. The fact that Spanish has been used for negotiations and for the Christianization of the Indians had the result of indigenous languages statistically dominating Spanish by the end of the colonial rule<sup>225</sup>. This dynamic would change completely within the first years of independence.

After 300 years of colonial rule, the Mexican War of Independence, composed by local struggles that were happening simultaneously within the Mexican state from 1810 until 1821, led to the independence of Mexico from Spain. Hidalgo and Allende revolt in 1810 is considered the initiating point for the Mexican Revolution and the first popular revolution with a significant character in Hispanic America<sup>226</sup>. Napoleon's conquest of Spain contributed to the weakening of the colonial rule and consequently the independence of various Latin American states, including Mexico. However, this war was only to the benefit

---

<sup>222</sup> Ibid, p. 199.

<sup>223</sup> Ibid, p. 199.

<sup>224</sup> Ibid, p. 128.

<sup>225</sup> Ariel Vazquez Carranza, *Linguistic Rights in Mexico* (8 RAEL Revista Electronica de Linguistica Aplicada 2009), p. 203.

<sup>226</sup> Terborg et al., *The Language Situation in Mexico, op. cit.*, p. 120.

of the Creole minority as IPs remained invisible<sup>227</sup>. Evident corruption and electoral frauds, with President Porfirio Díaz being in power for 30 years, affected the political situation in Mexico causing political instability<sup>228</sup>. During Porfirio's rule, the *campesinos* were severely impoverished due to the dispossession, privatization and sale of the communal indigenous lands introduced by his extreme economic policies. The feudal system, which was inherited by the Spanish colonizers and maintained for decades, led eventually to the Mexican revolution of 1911, which lasted for a decade and ended the Porfirio's dictatorship<sup>229</sup>. Francisco "Pancho" Villa and Emiliano Zapata, the first from the north and the other from the south of Mexico, were the leaders of the Revolution, which demanded "*Tierra y Libertad*" [*Land and Freedom*], along with a restoration of the 1857 Constitution and the fall of Diaz from power<sup>230</sup>. The *campesinos* played an important significant role in this revolution, asking to get their land back and supporting Zapata's *Plan de Ayala* for land reform<sup>231</sup>. The years that followed the revolution until 1920 were characterized by civil conflicts, political instability, with several changes in the presidency and empty promises to the Mexican people. Until the 30s several conflicts evolved in Mexico, but political stability started to appear again in the early 30s under the rule of Lázaro Cárdenas, who belonged to Partido Revolucionario Institucional [PRI], which stayed in power for more than 70 years. During the rule of PRI, neoliberal policies and negligence towards the indigenous continued to occur, planting the seeds for the Zapatista uprising.

## ii. The Emergence of the Zapatista Movement

The adoption of neoliberal policies by governments around the world, as a consequence of globalization, revealed and exacerbated the existing inequalities between the elites and the less privileged. Latin American populations became victims of these policies and Mexico was certainly not an exception. In fact, the IPs of Mexico, being one of the most vulnerable parts of society, were extremely affected by these policies, especially because they targeted natural resources which have always been essential for their survival. As a result,

---

<sup>227</sup>National Endowment for the Humanities, 'The Mexican Revolution: November 20th, 1910' (*NEH-Edsitement*, 2012), <<https://edsitement.neh.gov/closer-readings/mexican-revolution-november-20th-1910>> accessed 27 July 2020.

<sup>228</sup> Terborg et al., *The Language Situation in Mexico*, *op. cit.*, p. 121.

<sup>229</sup> National Endowment for the Humanities, 'The Mexican Revolution: November 20th, 1910', *op. cit.*

<sup>230</sup> *Ibid.*

<sup>231</sup> *Ibid.*

both by the newly introduced neoliberal policies and the typical discrimination against the Indians, the uprising of indigenous *campesinos* groups occurred in the province of Chiapas in 1994.

There have been many political changes that contributed to the emergence of this movement which had its base on common indigenous identity and struggles. The movement had its roots on diverse indigenous communities that reside in the southern part of Mexico, in the province of Chiapas: Tzotzil, Tzeltal, Tojolab'al, Ch'ol communities<sup>232</sup>. In the Lacandon jungle, where the uprising was initiated, Mayan *campesino* families have been living since the mid-12<sup>th</sup> century, most of them not speaking any Spanish<sup>233</sup>. However, in the Chiapas area there are also white Mexicans and mestizo *campesinos*<sup>234</sup>. These rural communities have been historically marginalized by the central governments which continued to follow the colonial methods in order to exploit and discriminate the *campesinos*. In the field of education, indigenous communities have been neglected by the governments' central education policies, resulting in high levels of illiteracy. As Chiapas is considered the poorest province of Mexico, there are still high levels of unemployment and the residents depend on the land to make ends meet. However, several neoliberal policies were imposed by the Mexican government since the 70s, in the context of the globalization phenomenon, such as land privatizations, foreign investments and displacements affecting the *campesinos*' relationship with their land<sup>235</sup>. In addition, these policies had the common goal of assimilating IPs and culturally homogenize the world<sup>236</sup>. Therefore, the consequences of these neoliberal policies for the *campesinos* are not only limited to their disadvantaged economic situation, but also to the loss of their rich cultures and languages. Due to these unfair policies, tensions have occurred between mestizo landowners, national and regional authorities and police forces on the one side, and indigenous leaders on the other<sup>237</sup>. During the presidency of Carlos Salinas, many attempts have been made for "*privatizing and partitioning indigenous lands*"<sup>238</sup>. One of the main events that triggered the uprising was the

---

<sup>232</sup> Richard Stahler-Sholk, *The Zapatista Social Movement: Innovation and Sustainability*, in *Alternatives: Global, Local, Political* (35(3) Sage Publications Inc. 2010), p. 269.

<sup>233</sup> Bruno Baronnet and Mariana Ortega Breña, *Rebel Youth and Zapatista Autonomous Education in Latin American Perspectives* (35(4) Sage Publications Inc 2008), p. 112.

<sup>234</sup> Josh Bahn, *Marxism in a snail shell: Making history in Chiapas*, in *Rethinking History* (Routledge Taylor & Francis Group 2009), p. 542.

<sup>235</sup> *Ibid*, p. 542.

<sup>236</sup> Ιγνάσιο Ραμόνε, *Μάρκος: Η εξεγερμένη αξιοπρέπεια*, (Εκδόσεις του Εικοστού Πρώτου 2001), p. 40.

<sup>237</sup> Josh Bahn, *Marxism in a snail shell: Making history in Chiapas*, *op. cit.*, p. 542.

<sup>238</sup> *Ibid*.

revision of Article 27 of the Constitution of 1917, eliminating chances for land distribution and threatening the collective lands with privatizations<sup>239</sup>. In addition, this reform diminished IPs' chances of gaining legal ownership of the lands in which they have been residing and working since always<sup>240</sup>.

All these policies that discriminated the *campesinos* with the justification of economic development were sufficient for the Zapatistas to rebel against the central government. However, the “last straw” was the decision to sign the North American Free Trade Agreement (NAFTA) on the 1<sup>st</sup> of January 1994, which established a zone of free commerce between Canada, the US and Mexico. This Agreement would be the “*death sentence*” for indigenous people<sup>241</sup>. In order to express their fury against this agreement, the Zapatista Army of National Liberation (EZLN) rose against the Mexican government declaring war, on the very same day that NAFTA was being signed: the 1<sup>st</sup> of January 1994. EZLN took several towns in Chiapas under its control. This was a big loss for the central authorities of Mexico as Chiapas is the country's richest province in natural resources. In the 12 days of armed conflict that followed the Mexican authorities tried to suppress the movement using force<sup>242</sup>. However, the Zapatistas, since the beginning, had strong supporters in national and consequently in international level. Civil society and human rights organizations contributed to depicting the reality of the situation that was evolving in Mexico and making the international community aware of the issue. Furthermore, the turbulent situation and the governmental response to the uprising limited investments in Mexico causing a serious threat to the country's economy<sup>243</sup>. Both international pressure and economic consequences led to the decision of ceasefire by the Mexican government, exactly 12 days after the uprising. The emergence of the global use of the internet in the beginning of the 90s facilitated the transmission of information regarding the situation within Mexico, contributing further to the awareness of the international community. After the ceasefire the government and the EZLN entered a phase of negotiations which eventually led to the San Andres Accords in February 1996, aiming to achieve higher levels of autonomy and integration of the indigenous into the political life of Mexico<sup>244</sup>. However, the governments have been continuously violating and

---

<sup>239</sup> Richard Stahler-Sholk, *The Zapatista Social Movement: Innovation and Sustainability*, op. cit., p. 270.

<sup>240</sup> Josh Bahn, *Marxism in a snail shell: Making history in Chiapas*, op. cit., p. 542.

<sup>241</sup> Ibid.

<sup>242</sup> Ibid, p. 543.

<sup>243</sup> Peter Rosset, María Elena Martínez-Torres and Luis Hernández-Navarro, *Zapatismo in the Movement of Movements* (48 Development 2005), p. 37.

<sup>244</sup> Josh Bahn, *Marxism in a snail shell: Making history in Chiapas*, op. cit., p. 543.

neglecting these Accords, breaching indigenous rights through the expansion of neoliberal economic policies<sup>245</sup>. Such example is the attempt to build roads territory occupied by the Zapatistas in 1999<sup>246</sup>.

Despite the fact that EZLN used arms in order to gain back the lands, a violent revolution, the fall of the Mexican government and the rise in power were not among its goals<sup>247</sup>. In order to prove that weapons were not the main means of the Zapatistas struggle, in the National Democratic Convention that was organized in August 1994 in the Lancandón jungle, the Zapatista soldiers marched with white ribbons tied on their weapons<sup>248</sup>. The Zapatistas wanted to gain back their autonomy and control over their lands by fighting against the neoliberal economic policies and making themselves visible to the central authorities, which seemed to deny their existence for decades. However, they wanted to do this through the mobilization of civil society<sup>249</sup>. In addition, they aimed to ensure their fundamental human rights, such as education and health care, to preserve and maintain their cultures and languages against assimilation and negligence by the authorities, and to ensure their right to self-determination in the economic and cultural life<sup>250</sup>. Being tired of the vertical, exclusive way of doing politics, which has been discriminating them and excluding them from the decision-making, they aimed to take their lives at their own hands by promoting autonomy and their own methods of governance. They created a participatory type of democracy from below and they did not adapt to the electoral political system, but instead an autonomous regions model<sup>251</sup>. Their system of governance has evolved throughout the years, starting from simple community assemblies, to the creation of 38 Autonomous Municipalities and Regions Zapatistas [MAREZ - Municipios y Regiones Autónomas Zapatistas], and lastly the creation of the 5 *caracoles*, regional structures of governance administrated by the Good Governance Councils (JBG – Juntas de Buen Gobierno)<sup>252</sup>. The decision-making procedures within the Zapatistas communities are participatory and

---

<sup>245</sup> Josée Johnston, *Pedagogical Guerrillas, Armed Democrats, and Revolutionary Counterpublics: Examining Paradox in the Zapatista Unprising in Chiapas Mexico* in *Theory and Society* vol. 29, no. 4 (Kluwer Academic Publishers 2000), p. 466.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid, p. 470.

<sup>248</sup> Josée Johnston, *Pedagogical Guerrillas, Armed Democrats, and Revolutionary Counterpublics: Examining Paradox in the Zapatista Unprising in Chiapas Mexico*, *op. cit.*, p. 464.

<sup>249</sup> Ibid, p. 463.

<sup>250</sup> Josh Bahn, *Marxism in a snail shell: Making history in Chiapas*, *op. cit.*, p. 543.

<sup>251</sup>Stahler-Sholk, R, *The Zapatista Social Movement: Innovation and Sustainability*, *op. cit.*, p. 273.

<sup>252</sup> Ibid, p. 279.

horizontal, following the notion of “*mandar obedeciendo*” [lead by obeying]<sup>253</sup>. The members of the *Juntas* are rotating after completing a ten-day shift, preventing this way bureaucracy and biased decisions, while giving everyone the chance to participate.

This method of governance adopted by the Zapatistas proved to the world that there are other alternatives to electoral, central representative democracy which, in the case of Mexico, has not proved to be fair to the most vulnerable. It is a decentralized system of governance; however the situation varies within each *caracol*<sup>254</sup>. Of course, this autonomous way of thinking influenced other aspects of the life of the Zapatistas, such as the educational system, which will be examined further below.

### iii. The Linguistic Situation in Mexico before the Rise of the Movement

As I mentioned above, Mexico has a great cultural and linguistic diversity. The uprising of the Zapatistas in 1994 had an immense impact on the situation of indigenous languages and indigenous education in Mexico, as the preservation of their languages as well as the promotion of bilingual education in the rural areas have been among their main demands. As Terborg et al. mention in the *The Language Situation in Mexico, "before 1994 indigenous languages were scarcely mentioned in Mexican newspapers"*<sup>255</sup> Before examining in detail the impact of the movement on language policies, it would be useful to make a brief reference to the situation that existed in Mexico until the uprising.

First of all, it is important to mention that Spanish was considered the *de facto* official language of the Mexican state, the language spoken by the majority, as well as the lingua franca<sup>256</sup>. However, since 2003 the Mexican institution recognizes a total of 68 national languages, 63 of which are indigenous, Spanish and some immigrant languages. Despite their recognition by the Mexican Constitution, indigenous languages are still considered minority languages, compared to the dominance of Spanish in almost every sector of public life<sup>257</sup>. Even though Spanish is the language of the majority there is huge indigenous language diversity with different language families and sub-categories, each one representing a

---

<sup>253</sup> Ibid, p. 284.

<sup>254</sup> Ibid, p. 279.

<sup>255</sup> Terborg et al., *The Language Situation in Mexico, op. cit., p. 122.*

<sup>256</sup> Ibid, p. 123.

<sup>257</sup> Ibid.

different culture. Linguists who have been studying Mexican languages have come up with several different categorizations and families for the indigenous languages in Mexico, however according to the consensus there are three language families: the Uto-Aztec or Yutonahuan, Otomangue or Otopame, and Mayan or Mayan- Totonacan<sup>258</sup>. Indigenous languages are considered minority languages in Mexico, with Nahuatl and Yucatec Mayan being the two major ones, representing the Aztec and the Mayan cultures respectively. In Chiapas, Mayan languages are dominant and as the region is mostly populated by indigenous people there is a significant number of diverse indigenous languages, such as Tzeltal, Tzotzil, Tojolabal, Chuj, Chontal, Chol and Lacandon<sup>259</sup>. In rural areas - like in the case of Chiapas – there is a higher level of indigenous language survival, due to the isolated character of both the region and the communities. Poor rural communities have been excluded by many governmental policies and measures while at the same time poor transportation network, remote locations and bad financial condition have kept these peoples away from the dominant majority. Even though this can prove to be beneficial for keeping their languages and cultures intact, it condemns these communities to exclusion and poor living conditions<sup>260</sup>. In general, the attitude of central authorities towards the preservation and recognition of indigenous languages - especially in urban centers and regions where IPs are simply the minority - has been exclusive. The demands proclaimed by EZLN as well as the autonomous system of education established within the autonomous regions of the Zapatistas brought positive developments to the linguistic and educational rights of IPs. Before examining these advancements, it would be useful to examine the evolution of these rights during the evolution of Mexico, from pre-colonial times to the Mexican state that is today.

According to the book *The Language Situation in Mexico*, language policies in Mexico have passed three different stages: incorporation, integration and participation - nowadays experiencing policies of participation<sup>261</sup>. In pre-colonial Mexico, the Aztecs used a strict language policy across the Aztec empire with their language Nahuatl being *the lingua franca*<sup>262</sup>. The Aztecs were using practices, such as relocation of the people outside their linguistic communities in order to fragment these communities and impose Nahuatl to

---

<sup>258</sup> Ibid, p. 129.

<sup>259</sup> Ibid.

<sup>260</sup> Ibid, p. 135.

<sup>261</sup> Ibid, p. 139.

<sup>262</sup> Rainer Enrique Hamel, *Indigenous Language Policy and Education in Mexico*, in Stephen May & N. H. Hornberger, *Encyclopedia of language and education vol. 1: Language policy and political issues in education*, 2<sup>nd</sup> ed, (Springer 2008), p. 302.

them<sup>263</sup>. During colonial times, similarly to every conquered country, the Spanish imposed policies of Hispanization, as proved by the several Royal Decrees that have been issued. As mentioned above, the Spanish encountered some very rich civilizations when they arrived in Mexico from which they were fascinated at first, leading to the production of grammars and dictionaries of the Nahuatl language by several intellectuals<sup>264</sup>. However, this phase ended quite soon, as the Spanish started focusing more on their real goals which was the evangelization of the Indians and the production of profit for the Crown through the exploitation of the territory's rich natural resources. In this context, the policy of Castilianization seemed inevitable. This was evident through the Royal Decree signed by King Carlos III in 1770 which stated that the Indians had to learn and use Spanish, that Spanish was the only language to be used in public matters and that other languages were excluded from it<sup>265</sup>. Therefore, monolingual Indians were greatly excluded from public positions and discriminated against on the basis of their language. Due to these extreme colonial practices, it is estimated that a significant amount of languages was lost. However, despite the severe practices to hispanize the Indians, until the end of colonial period many people still continued to speak indigenous languages.

After the revolution and the transformation of Mexico into a republic, an ideology of unity of the nation was adopted by the mestizo elites that came in power. They thought that by imposing a common language for all – in this case Spanish – they would avoid further fragmentation and a possible threat to the territorial integrity of the state. However, the society was inherently fragmented as diverse cultures and languages were present. Following the idea of a homogenous nation state with “*one language-one nation*”, the authorities maintained the Castilianization colonial practices<sup>266</sup>. In case that the Indians failed or denied to comply with the standards of culture they would be oppressed and discriminated, left illiterate and even deprived from their rights to their communal lands which were being sold<sup>267</sup>. In fact, as mentioned in *The Language Situation in Mexico* there were hardly any policies regarding language, but mostly economic policies that had a severe impact on indigenous cultures and languages<sup>268</sup>. Many important manifestations of indigenous cultures as well as their languages were lost in the name of the assimilation of the Indians. Right

---

<sup>263</sup> Terborg et al., *The Language Situation in Mexico*, op. cit., p. 140.

<sup>264</sup> Ibid, p. 140.

<sup>265</sup> Ibid, p. 174.

<sup>266</sup> Rainer Enrique Hamel, *Indigenous Language Policy and Education in Mexico*, op. cit., p. 302.

<sup>267</sup> Terborg et al., *The Language Situation in Mexico*, op. cit., p. 141.

<sup>268</sup> Ibid.

before the fall of the Porfirian dictatorship and probably due to the participation of Indian *campesinos* in the Mexican revolution of 1911 and their wider demands, small steps were made to support their communities<sup>269</sup>. The approval of the Law of Rudimentary Instruction right before the end of Diaz's rule, aimed to provide education to everyone, especially on indigenous communities, focusing, however, only in the teaching of Spanish. Indigenous languages were still invisible. This ambitious law never managed to achieve its goals due to the country's big population, the limited budget as well as the linguistic diversity which made it impossible to establish monolingual education<sup>270</sup>. This was probably a wakeup call for the Mexican society to start considering the pluricultural and multilingual character of the state not as a burden but more as a richness that could not to be lost.

The Constitution of 1917 brought some improvements regarding access to education for poor and disadvantaged communities, putting education under the control of each state and district. Additionally, this Constitution proclaimed the promotion of the teaching of Spanish in public and private schools, but without interfering to the promotion and protection of indigenous languages. Despite the fact that the Constitution promoted the protection of indigenous languages, it continued not to recognize them as equal to Spanish, as Spanish continued to be the language used and taught in the education system. Until the 1930s rural *campesino* education was either neglected completely or simply focused on Castilianization<sup>271</sup>. The 1973 Federal Law of Education which remained in effect until 1993, continued further with this negligence towards indigenous languages, stating that educational material had to be the same for all communities, completely discarding the diversity of these groups and their languages. An evolution towards the direction of recognizing indigenous cultures and languages in the education system came by the 1985 educational policy for indigenous populations which aimed to the development of local languages through a bilingual education in specific rural areas<sup>272</sup>. This "*bilingual and bicultural*" project aimed to introduce Spanish as a second language and indigenous languages as first languages and mediums of instruction<sup>273</sup>. However, the project never passed the pilot stage due to bureaucratic matters and political opposition from within the communities and teachers' unions<sup>274</sup>. Lastly, the 1992 revision of the Constitution officially recognized the multilingual

---

<sup>269</sup> Ibid, p. 174.

<sup>270</sup> Ibid.

<sup>271</sup> Ibid, p. 177.

<sup>272</sup> Ibid, p. 179.

<sup>273</sup> Rainer Enrique Hamel, *Indigenous Language Policy and Education in Mexico, op. cit., p. 304.*

<sup>274</sup> Ibid.

and multicultural character of Mexico and gave to the state the responsibility to preserve and maintain the diverse languages.

Bilingual education, since the 20<sup>th</sup> century, has been limited to basic school levels, and until now, it works as a transition, as a way to lead indigenous children to the use of Spanish<sup>275</sup>. The emergence of the Zapatistas brought important advancements in language policies as well as the education systems, especially within the autonomous Zapatista communities.

#### iv. The Influence of the Zapatistas in the Language Policies of Mexico

The demands of the movement touched many different sectors of life of the marginalized IPs of Mexico, such as land rights, access to healthcare and education. Due to the high levels of illiteracy, especially in the province of Chiapas, the Zapatistas realized that something needed to be done in order to offer a better future to the next generations. In addition, as the preservation and development of their cultures was one of their main goals, they realized that they needed to take action to preserve their languages.

After the insurrection of the indigenous and *campesinos* in Chiapas and the end of the armed conflict, the EZLN started using their most preferred means to approach the central authorities: dialogue<sup>276</sup>. The negotiations started in 1996 and the result was the San Andres Accords including contributions by both the federal government and the EZLN. EZLN actively participated in the constitutional reforms that concerned IPs and their rights. The aim of the EZLN was to change the relationship between the state and its IPs - a relationship that has been characterized by subordination, exploitation and marginalization. The most important advancement in these Accords was probably the agreement to recognize IPs in the Mexican Constitution as well as their right to self-determination. Both their individual and collective rights were to be recognized by the new legislation, including both social and economic rights as well as civil and political. In addition, they aimed to higher levels of political participation, consultation and autonomy of the indigenous communities. There is no specific chapter of the San Andres Accords that deals with language; however issues of

---

<sup>275</sup> Ariel Vazquez Carranza, *Linguistic Rights in Mexico*, *op. cit.*, p. 204.

<sup>276</sup> Ιγνάσιο Ραμόνε, *Μάρκος: Η εξεγερμένη αξιοπρέπεια*, *op. cit.*, p. 63.

language were mentioned related to education and culture<sup>277</sup>. The Accords aimed to establish equal status between indigenous language and Spanish, raise national awareness for indigenous languages and cultures and include IPs in the process of curricula design with the aim of revitalizing indigenous languages<sup>278</sup>. However, the Mexican authorities, despite the promises they made and the value that they seemed to give to the peoples with these new reforms, remained steady to their previous policies, neglecting the protections offered by the San Andres Accords<sup>279</sup>.

This reform eventually led to the adoption of the 2003 General Law for the Linguistic Rights of Indigenous People, the most important document on indigenous linguistic rights in Mexico<sup>280</sup>. This Law recognized both individual and collective linguistic rights for IPs and promoted the use and development of indigenous languages. More specifically, the document recognizes the equal status of indigenous languages to Spanish, the rights of all Mexicans to communicate in their native language in both the private and the public sphere (Article 9), the right to access to justice for matters that concern the national indigenous language of their community (Article 10), and the right to access a compulsory multicultural and bilingual education, compatible to their indigenous identity<sup>281</sup>. Of course, the members of the community would actively participate in the education system and the teaching of their languages, according to their own cultures and beliefs<sup>282</sup>. In the case of IPs this is extremely important, as many times in the past education for the indigenous has been either completely neglected or incompatible with the indigenous values and beliefs, unable to adapt to the unique character of each of these groups, while at the same time having as a main goal to assimilate and Castilianize. According to Article 6 of this Law all the teachers in bilingual education had to speak the indigenous language and be familiar with the culture of the community in which they work<sup>283</sup>. The National Institute of Indigenous Languages was an agency that was established under this law in order to promote and preserve indigenous languages with adoption of policies and the participation of indigenous representatives<sup>284</sup>. Despite the fact that the new Law was a far-reaching document with wide protections to indigenous languages and their speakers, linguistic rights are still not fully attained in the

---

<sup>277</sup> Ariel Vazquez Carranza, *Linguistic Rights in Mexico op. cit.*, p. 204.

<sup>278</sup> Ibid.

<sup>279</sup> Ibid.

<sup>280</sup> Ibid.

<sup>281</sup> Ariel Vazquez Carranza, *Linguistic Rights in Mexico, op. cit.*, p. 205.

<sup>282</sup> Terborg et al., *The Language Situation in Mexico, op. cit.*, p. 144.

<sup>283</sup> Ibid.

<sup>284</sup> Ariel Vazquez Carranza, *Linguistic Rights in Mexico, op. cit.*, p. 205.

whole territory of the Mexican state, due to several obstacles such as the discrimination and underrepresentation of indigenous cultures in the schooling systems, the migration of indigenous populations in the urban centers, and therefore in Spanish-speaking communities, as well as the limited material in indigenous languages for the peoples to read<sup>285</sup>. In addition, a significant factor that keeps indigenous children away from learning their community's languages is that their parents chose not to teach it to them<sup>286</sup>. Indigenous languages have been traditionally transmitted to the next generations, in the first level, by the family and the community in general, especially during the times that no other educational opportunity was available. However, after experiencing subordination themselves, indigenous parents sometimes choose not to teach indigenous languages to their children, preferring Spanish instead, in order to avoid their children being discriminated against and excluded from the dominant society. This is a phenomenon observed not only in Mexico but elsewhere.

Being neglected for 500 years, since 1994 and the rise of the movement, IPs started enjoying more their fundamental human rights, including linguistic<sup>287</sup>. The rise of Zapatistas and the demands introduced by the EZLN led or at least contributed to significant recognitions for the linguistic and educational rights, as well as the preservation and development of the languages of IPs. However, it seems that a lot needs to be done in federal level in order to achieve and fulfill the provisions of the 2003 General Law. In community level, on the other side, the Zapatistas have preserved and promoted these rights in an extremely efficient way, through the establishment of the Zapatista autonomous education system.

#### v. Education in the Autonomous Zapatista Communities

For the Zapatistas, education has been among their main demands since the beginning, as they understood that in order to maintain and develop their cultures and languages they needed an intercultural education based on their own identities and beliefs, implemented by people that belong to their communities. This importance of education for Zapatistas was highlighted in the 2002 Sixth Declaration of the Lacadón Jungle, which among others, put education, language and culture as some of the main objectives,

---

<sup>285</sup> Terborg et al., *The Language Situation in Mexico*, op. cit., p. 145.

<sup>286</sup> Ibid.

<sup>287</sup> Ariel Vazquez Carranza, *Linguistic Rights in Mexico*, op. cit., p. 206.

introducing a new EZLN plan of action in this cause. Also, this connection between education and culture came forward in the second gathering between indigenous women and the UN in 2005 in Mexico City, which highlighted that the long-term negligence towards intercultural education by the state “led to the loss of identity, culture and language”<sup>288</sup>.

Seeing this undeniable connection and the inability of the federal government, during PRI rule to adopt and implement an education plan that would accommodate and include all cultures of the Mexican state, the Zapatistas have been organizing education within their communities. Along with political and territorial autonomy, the EZLN wanted to incorporate autonomy in education as well. Autonomy in education is important as it encompasses the idea of “returning and serving the community”<sup>289</sup>. Despite the fact that a bilingual and intercultural education system is recognized in federal level, as has been discussed above, in reality implementation was either flawed or completely non-existent. For this reason, the Zapatistas created their own autonomous school networks in order to address the homogenization of the central educational policies<sup>290</sup>.

The system of course is based on the main ideals of autonomy and management from below, following the same political structure that applies in other sectors of life in the autonomous Zapatista municipalities. They turned to the young indigenous men and women of the communities and gave them the role of autonomous education promoters. These promoters work on a voluntary basis not being paid for their services. However, the community has the obligation to contribute to cover their basic needs in order for them to educate its children. The young people were considered ideal for teaching, as they have been born and raised within the autonomous communities – during and after the 1994 insurrection – and therefore they have developed a sense of belonging. In addition, most of them are bilingual in both Spanish and a Mayan language; they are familiar with the collectiveness and the common indigenous beliefs, as well as the processes of political deliberation and autonomy<sup>291</sup>. All in all, indigenous youth plays an important role within the Zapatista communities for multiple reasons. They are seen as the future of the communities and they

---

<sup>288</sup> Hugo Aboites, *Autonomy and Education: The Contribution of Aboriginal Peoples to Education in Mexico in the 21st century*, in *The School as Community Hub Beyond Education's Iron Cage* (Our Schools, Our Selves/Canadian Magazine Publishers Association 2010), p. 145.

<sup>289</sup> Ibid, p. 154

<sup>290</sup> Bruno Baronnet and Mariana Ortega Breña, *Rebel Youth and Zapatista Autonomous Education in Latin American Perspectives*, op. cit., p. 113.

<sup>291</sup> Bruno Baronnet and Mariana Ortega Breña, *Rebel Youth and Zapatista Autonomous Education in Latin American Perspectives*, op. cit., p. 113.

are considered the most suitable to teach new generations about their cultures, their languages as well as their history and their common values of autonomy and collective spirit.

The main goal of the Zapatista education is the creation of a collective perception in the students, in order to put the community's common good above their own individual benefit<sup>292</sup>. The content of the curriculum in these autonomous schools is compatible with the cultures of the relevant communities, in an attempt to revive these cultures and regain what has been lost after centuries of oppression. It also gives an increased focus in the Mayan languages, favoring their use over Spanish<sup>293</sup>. The linguistic domination of Spanish has caused damages to the survival of the indigenous Mayan languages and the Zapatistas are very much aware of that. However, in most schools, students are being taught both their native language and Spanish, recognizing the fact that monolingual Mexicans might be excluded in the future by the dominant society<sup>294</sup>. In addition, Zapatista education is also based in agriculture, which is a main aspect of life of the communities, trying to revive the relationship between the people and their lands and promoting sustainable living<sup>295</sup>. It includes several subjects, some of which are common to federal education: math, language and communication, social and natural sciences, mother tongue, humanities<sup>296</sup>. Humanities include the teaching of Zapatismo, the struggle and the rise of the movement as well as their distinct political structures<sup>297</sup>. In this way the promoters try to teach their students the history of Mexico, in a decolonizing and indigenous-focused discourse. Promoters implement the provisions of the San Andres Accords in their work. They also teach children about their rights and the ways to fight for them. Even though the basic structure of education is the same, each municipality organizes it differently<sup>298</sup>. The way that a municipality is organizing and administrating its education is again from below, in a horizontal manner. In addition, the community is supervising the promoters and sets specific requirements that they have to meet. In case they do not comply with these requirements, the community has the right to

---

<sup>292</sup> Hugo Aboites, *Autonomy and Education: The Contribution of Aboriginal Peoples to Education in Mexico in the 21st century*, *op. cit.*, p. 157.

<sup>293</sup> Bruno Baronnet and Mariana Ortega Breña, *Rebel Youth and Zapatista Autonomous Education in Latin American Perspective*, *op. cit.*, p. 117.

<sup>294</sup> Hugo Aboites, *Autonomy and Education: The Contribution of Aboriginal Peoples to Education in Mexico in the 21st century*, *op. cit.*, p. 157.

<sup>295</sup> *Ibid*, p. 158.

<sup>296</sup> *Ibid*, p. 155.

<sup>297</sup> *Ibid*, p. 156.

<sup>298</sup> Hugo Aboites, *Autonomy and Education: The Contribution of Aboriginal Peoples to Education in Mexico in the 21st century*, *op. cit.*, p. 157.

dismiss them. Furthermore, the curricula and the pedagogical methods are also supervised by an education committee that has been elected by the assembly<sup>299</sup>.

From all the above, it becomes clear that the education system in the autonomous municipalities in Chiapas aim to the reaffirmation of identity and culture, the valorization and preservation of indigenous languages and the empowerment and participation of the youth to the community's common good<sup>300</sup>. In spite of the significance that the Zapatistas had in the central educational system, language policies and legislation, the establishment of an autonomous education system, based on the indigenous values, has contributed a lot in the further protection of indigenous languages in a local level, in the province of Chiapas, and the preservation of indigenous cultures, in a country where central intercultural education is still not fully accomplished.

---

<sup>299</sup> Ibid, p. 116.

<sup>300</sup> Ibid, p. 118.

## CONCLUSIONS

The absence of protection to linguistic rights in international law combined with the marginalized position that indigenous people have held throughout the years, led to limitations in the fulfillment of indigenous linguistic rights and the loss of many indigenous languages. Assimilation and hispanization policies in Latin America, since colonial times, aimed to homogenize all citizens with the justification of integration into the dominant society. However, the process of assimilation never reached its main goal, as the rich linguistic and cultural diversity that exists in most Latin American countries was never completely lost and still continue to manifest itself through diverse indigenous communities.

The past decades indigenous rights in international law have evolved significantly and indigenous participation has increased in all levels of decision making. In addition, international advancements, such as the adoption of the ILO Convention No. 169 and the UNDRIP, as well as regional advancements, such as the creation of the IACHR and the IACtHR and the easy access to these mechanisms, offered powerful channels to the IPs of the Americas to claim their rights and demand judicial remedy after years of invisibility and exclusion. Indeed, the IACtHR has produced important case law on indigenous rights, mostly on issues related to land and natural resources. Linguistic rights never seemed to be among their main concerns mostly because violations of other rights seemed to have more impact on their living conditions. However, linguistic rights violations can have a destructive effect on the preservation and development of indigenous languages, cultures and identities. Language should not be considered as a mere medium of communication between a specific community but as a cultural expression and a part of the world's cultural heritage. In the case of IPs language carries with it knowledge and specificities that make their cultures unique, such as their concepts related to nature and their spiritual relationship with it. Therefore, fully granting linguistic rights to IPs - such as their rights to communicate with other members of their community in the private and public sector in their mother tongue, to have access to a bilingual education in both their mother tongue and the official language of the state and to have access to information, media and judicial procedures in their mother tongues – not only benefits IPs themselves but also contributes to the preservation of the cultural world heritage.

Despite the fact that most indigenous movements do not focus on linguistic demands, there are some movements that have influenced the central language policies in the countries

where they emerged. The Bolivian Cocaleros did not include language and education among their initial demands; however constitutional and legislative reforms made by Morales' government after the rise in power had a significant impact not only on the linguistic rights of indigenous *campesinos* in Bolivia, but also on the status and preservation of indigenous languages in the country. The Zapatistas, on the other side, along with a variety of other demands, included language, education and healthcare demands, based on a more holistic approach towards indigenous culture and identity. For them preservation of language and access to a compatible indigenous education is key to the maintenance of their identities and their survival. This different approach towards demands can be explained by the different specific characteristics of the status of IPs in each country, the different causes that led to their emergence as well as their different political organization and approach.

The path that these two movements followed after their uprising was different. From the one side, the Cocaleros evolved in a political party, which in fact rose in power in 2005 with the election of Evo Morales, while the Zapatistas continued organizing on a local level, in Chiapas. As the Cocaleros followed the electoral path, with the rise of Evo Morales in power, changes came in constitutional and policy level. When Morales became President, it took him one term to address the issues of language and education, as in the beginning he focused mostly in economy. Of course, language and education were not really included in the direct demands of the Cocaleros, which were mainly focused on economic and cultural matters regarding the policies of coca eradication and other neoliberal policies. The need to address neoliberal policies on economic level was imperative for them to continue gaining their means of subsistence. However, the reforms in language policies and education came naturally as a result of the election of the first Aymara President of the country. With the adoption of the 2009 Constitution, the 2010 Education Law and the 2012 Law on Linguistic Rights and Policies Morales' government proceeded to groundbreaking changes in the legal framework that governed indigenous languages and education. For sure, the recognition of all indigenous languages as official languages of the state, according to Bolivia's plurinational character, is an important advancement both symbolically and practically.

On the other side, the Zapatistas after their uprising did not turn into a political party since from the beginning the EZLN has official stated that does not wish to seize power, nor turn into a political party. The Zapatistas created strong relations with civil society and based their organization in autonomy through creating local assemblies and *caracoles*. The Zapatistas included education and language among their main demands, as they considered

that they could not preserve and develop their cultures without teaching their languages and indigenous values, beliefs, rituals and history to the new generations. For the Zapatistas these new generations need to learn all the specific characteristics that form their common identity in order to adopt a collective way of thinking over an individualistic one. Even though the Zapatistas never officially gained the political power that the Cocaleros gained through Morales, they still managed to make significant changes in the status of language and bilingual education. Through their negotiations with the Mexican government they managed to achieve the San Andres Accords which eventually led to the most thorough document on linguistic rights in Mexico, the 2003 General Law for the Linguistic Rights of Indigenous People. However, seeing the reluctance of the government to fulfill its obligations included in the Accords and the General Law, the Zapatistas created their own autonomous education system with the aim to adopt an education that would be compatible with their cultural and linguistic background. Therefore, the difference in the approach lies on the fact that Morales' achievements remained in constitutional and legal level, while the Zapatistas, following their political approach on autonomous organization, achieved changes in more practical terms in order to gain what the Mexican government has denied to them for years.

Despite the fact that indigenous movements have brought significant improvements in their respective countries, linguistic rights are still far from being fully achieved. On local level, in many Latin American countries, despite the laws and the constitutional changes made, many indigenous communities - especially in remote places - still do not have access to bilingual and intercultural education, in educational material in their own mother tongues as well as access to information and media. Furthermore, monolingual IPs, who only speak their indigenous mother tongue, are commonly excluded from social and economic development. In most countries language and bilingual education policies seem weak and indigenous groups, such as the Zapatistas, take the situation in their own hands in order to provide adequate education to the next generations. States' governments have to take immediate action to ensure access to a linguistically and culturally compatible education to all IPs that reside within their territories on all levels of education and in every remote location. In addition, on international level, action should be taken to provide wider protection to linguistic rights through a legally binding international document. Nowadays, linguistic rights are being addressed in several international and regional legal binding and soft law documents; however no international document exists to explain the content and address specifically linguistic rights. In addition, the fact that their realization is dependent on

the economic resources of the state makes many governments reluctant to protect them. Furthermore, many central governments avoid granting linguistic rights – or any types of rights – to minorities or IPs, believing that they are a threat to the territorial integrity of the state.

Apart from an international document to approach linguistic rights, another way to increase protection, specifically in the case of IPs, would be to follow the Zapatistas' horizontal approach. Of course, international legal documents, constitutions and laws provide a certain level of protection; however many times they are either neglected by the governments or implemented in a way that is incompatible to indigenous cultures. Such an example is in most cases the implementation of an indigenous education that is bilingual but not intercultural. That is an education that considers the linguistic differences of IPs, but not their cultural differences, their beliefs, customs and rituals that distinguish them from the dominant majority. Therefore, an education created from the bottom, in community level, decided by local assemblies and implemented by indigenous teachers or education promoters would be a more adequate option. In this way, indigenous communities would have the opportunity to provide their future generations with a comprehensive educational experience that would not only teach indigenous children to read and write in their mother tongues, but also to obtain indigenous values and knowledge and live their lives in a way that benefits the community. Furthermore, teaching indigenous children history in an indigenous perception - free from dominant colonizing ideals – would create a stable ground for advancing their culture and comprehend the historical advancements that influenced their communities. In order to achieve this type of autonomous education governments should provide indigenous communities with the financial resources to bring it into practice.

In order to address the issue of poor realization and implementation of linguistic rights for IPs, it is important to put more pressure on governments to ratify the international documents that address linguistic rights among their provisions as well as to fulfill their obligations according to their Constitutions, their laws and international standards. The adoption of a comprehensive international document, such as a Convention or a Declaration on linguistic rights, might seem useful for the better understanding of the content of these types of rights which are widely neglected. The existence of such a document would make states bound to respect, protect and fulfill linguistic rights, contributing this way to the preservation of minority and indigenous languages and the protection of the world's cultural heritage. Lastly, governments should promote and support community-based, autonomous

indigenous education that is compatible with each community through the creation and implementation by IPs themselves.

## BIBLIOGRAPHY

### Books and Articles

- Aboites H., *Autonomy and Education: The Contribution of Aboriginal Peoples to Education in Mexico in the 21st century*, in *The School as Community Hub Beyond Education's Iron Cage*, (Our Schools, Our Selves, Canadian Magazine Publishers Association 2010)
- Anaya S. J., *Indigenous Peoples In International Law* (Oxford university press 2000)
- Anaya S. J., *Indigenous Rights Norms In Contemporary International Law* (8th edn, Arizona Journal of International and Comparative Law 1991)
- Bahn J., *Marxism in a snail shell: Making history in Chiapas*, in *Rethinking History*, 13:4, (Routledge Taylor & Francis Group 2009), pp. 541-560
- Baldauf R., and Kaplan R., *Language Planning And Policy In Latin America, Vol. 1 Ecuador, Mexico And Paraguay* (1st edn, Multilingual Matters LTD 2007)
- Baronnet B., and Ortega Breña M., *Rebel Youth and Zapatista Autonomous Education in Latin American Perspectives* (35(4) Sage Publications Inc 2008), pp. 112–124.
- Beiter K., *The Protection Of The Right To Education By International Law* (Martinus Nijhoff 2006)
- Candelaria S. M., *Comparative Analysis On The ILO Indigenous And Tribal Peoples Convention No. 169, UN Declaration On The Rights Of Indigenous Peoples (UNDRIP), And Indigenous Peoples' Rights Act (IPRA) Of The Philippines* (International Labour Organization, ILO Country Office of the Philippines 2012)
- Chen C. W., *Indigenous Rights in International Law* (Oxford Research Encyclopedia of International Studies 2014)
- Contreras M., and Talavera Simoni M., *The Bolivian Education Reform, 1992-2002* (2nd edn, Education Reform and Management Team, Human Development Network - Education, World Bank 2003)
- Daudet Y., and Eisenmann P., *Commentary On The Convention Against Discrimination In Education (Adopted On 14 December 1960 By The General Conference Of Unesco)* (Unesco 2005)
- De Varennes F., *Language, Minorities and Human Rights* (Kluwer Law International 1996)
- De Varennes, F., *L'article 35 de la Loi constitutionnelle de 1982 et la protection des droits linguistiques des peuples autochtones* (4(3) National Journal of constitutional Law 1994), pp. 265-303,

- Errico S., *The American Declaration On The Rights Of indigenous Peoples* (21st edn, American Society of International Law 2017)
- Gómez Isa F., *The UNDRIP: An Increasingly Robust Legal Parameter* (The International Journal of Human Rights 2019)
- Gómez Isa F., *Spain: The First Cry For Justice in the Americas — From Antonio de Montesinos to the Law of Burgos (1952)*, in Markku Suksi, Kalliope Agapiou-Josephides, Jean-Paul Lehnert, Manfred Nowak, *First fundamental rights documents in Europe : commemorating 800 years of Magna Carta*, (Intersentia 2015)
- Gómez Isa F., *The Role Of Soft Law In The Progressive Development Of Indigenous Peoples' Rights* in Lagoutte, S., Gammeltoft-Hansen, T. and Cerone, J., *Tracing The Roles Of Soft Law In Human Rights* (Oxford University Press 2016), pp.185-210.
- Graham L., and Van Zyl-Chavarro A., *Education, Media, And The U.N. Declaration On The Rights Of Indigenous Peoples* (Carolina Press 2018)
- Gustafson B., *Oppressed No More? Indigenous Language Regimentation In Plurinational Bolivia* (International Journal of the Sociology of Language 2017)
- Johnston J., *Pedagogical Guerrillas, Armed Democrats, and Revolutionary Counterpublics: Examining Paradox in the Zapatista Unprising in Chiapas Mexico, Theory and Society in Theory and Society* (29:4 Kluwer Academic Publishers 2000), pp. 463–505
- Hamel R. E., *Indigenous Language Policy and Education in Mexico*, in Stephen May & N. H. Hornberger (Eds.) *Encyclopedia of language and education vol. 1: Language policy and political issues in education* (2<sup>nd</sup> edn Springer 2008), pp. 301-312
- Kloss H., *The American Bilingual Tradition* (Center for Applied Linguistics 1998)
- Kontra M. and others, *Language: A Right And A Resource* (Central European University Press 1999)
- Lenzerini F., *Reparations For Indigenous Peoples: International And Comparative Perspectives* (Oxford University Press 2009)
- Martínez Cobo J., *Study Of The Problem Of Discrimination Against Indigenous Populations* (United Nations 1987)
- May S., *Language Rights: The “Cinderella” Human Right* (Journal of Human Rights vol. 10 2011)
- Mazel O. et al. *The Evolution of Rights: Indigenous Peoples and International Law* (Australian Indigenous Law Review 13.1 2009)
- Oikonomakis L. and Espinoza F., *Bolivia's MAS and its actual relation with the movements that brought it to state power* in Stahler-Sholk R, and Vanden H, *Rethinking Latin*

- American Social Movements: Radical Action From Below* (Rowman & Littlefield Publishers 2014)
- Pasqualucci J. M., *The Evolution Of International Indigenous Rights In The Inter-American Human Rights System* (6 Human Rights Law Review 2006)
- Phillipson R., Rannut M., and Skutnabb-Kangas T., *Linguistic Human Rights: Overcoming Linguistic Discrimination* (Walter De Gruyter & Co 1995)
- Ραμόνε Ι., *Μάρκος: Η εξεγερμένη αξιοπρέπεια* (Εκδόσεις του Εικοστού Πρώτου 2001)
- Skutnabb-Kangas T., *Bilingualism Or Not* (Multilingual Matters 1981)
- Shoaei M., *MAS And The Indigenous People Of Bolivia* (University of South Florida 2012)
- Suárez Santos R., *Three Decades Since The ILO'S Convention 169: Reflections In Light Of The Experience Of The Private Sector With Prior Consultation* (24 The International Journal of Human Rights 2019)
- Terborg et al., *The Language Situation in Mexico*, in Richard B Baldauf Jr. and Robert B Kaplan, *Language Planning And Policy In Latin America, Vol. 1: Ecuador, Mexico And Paraguay* (1st edn, Multilingual Matters LTD 2006)
- Toscano Méndez M., *Language Rights as Collective Rights: Some Conceptual Considerations on Language Rights*, (27 ResPublica: Revista de Filosofía Política 2012)
- Vazquez Carranza A., *Linguistic Rights in Mexico* (8 RAEL Revista Electronica de Linguistica Aplicada 2009)
- Zoetelief J. M., *Teachers and intercultural education reform in Bolivia* (Universiteit van Amsterdam 2013)

### Internet Sources

- Aukerman M., 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context' (22 Human Rights Quarterly 2000), available at: <[https://www.jstor.org/stable/4489313?read-now=1&seq=1#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/4489313?read-now=1&seq=1#page_scan_tab_contents)> [accessed 2 June 2020]
- Baronnet B., 'Derecho A La Educación Y Autonomía Zapatista En Chiapas, México' (22 Convergencia Revista de Ciencias Sociales 2015), available at: <[http://www.scielo.org.mx/scielo.php?script=sci\\_arttext&pid=S1405-14352015000100004](http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1405-14352015000100004)> [accessed 27 July 2020]
- Chaplin A., 'Social Movements In Bolivia: From Strength To Power' (45 Community, 2010), available at: Development Journal <<https://doi.org/10.1093/cdj/bsq028>> [accessed 25 July 2020]

- De Varennes F., 'Minority Aspirations And The Revival Of IPs' (42 International Review of Education 1996) <<https://www.jstor.org/stable/3444905>> [accessed 2 June 2020]
- Fránquiz M., Leija M., and Salinas C., 'Challenging Damaging Ideologies: Are Dual Language Education Practices Addressing Learners' Linguistic Rights?' (58 Theory Into Practice 2019), available at: <<https://doi.org/10.1080/00405841.2019.1569379>> [accessed 27 May 2020]
- Gilbert J., and Castellino J., 'Self-Determination, IPs And Minorities' (3 Macquarie Law Journal 2003), available at: <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1727284](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1727284)> [accessed 2 June 2020]
- 'International Justice Resource Center | International Justice Resource Center' (*Ijrcenter.org*, 2020) <<https://ijrcenter.org/>> [accessed 3 May 2020]
- Isidor M., 'Globalisation And Linguistic Rights: Towards A Universal Framework Of Linguistic Stability' (Transfer 1 2006), available at: <[https://www.academia.edu/16228039/Globalisation\\_and\\_Lingusitic\\_Rights](https://www.academia.edu/16228039/Globalisation_and_Lingusitic_Rights)> [accessed 28 May 2020]
- Jovanovic M., 'Recognizing Minority Identities Through Collective Rights' (27 Human Rights Quarterly 2005), available at: <[https://www.jstor.org/stable/20069799?seq=1#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/20069799?seq=1#metadata_info_tab_contents)> [accessed 2 June 2020]
- Khosravi Shakib M., 'The Position Of Language In Development Of Colonization' (2 Journal of Languages and Culture 2011), available at: <<https://academicjournals.org/journal/JLC/article-abstract/D69EB2C2269>> [accessed 27 May 2020]
- Lee-Hammond L., and Jackson-Barrett E., 'Indigenous Children's Linguistic Rights In The 21St Century: Intentions And Tensions In Practice' (51 International Journal of Early Childhood 2019), available at: <<https://link.springer.com/article/10.1007/s13158-019-00251-6?shared-article-renderer>> [accessed 27 May 2020]
- Malá S., 'El movimiento "cocalero" en Bolivia durante los años 80 y 90: sus causas y su desarrollo', (15:20 Esboços: histórias em contextos globais 2009), p. 101-117, available at: <<https://periodicos.ufsc.br/index.php/esbocos/article/view/2175-7976.2008v15n20p101>> [accessed 28 July 2020]
- National Endowment for the Humanities, 'The Mexican Revolution: November 20Th, 1910' (*NEH- Edsitement*, 2012), <<https://edsitement.neh.gov/closer-readings/mexican-revolution-november-20th-1910>> [accessed 27 July 2020]
- Nichols R., 'Struggling With Language': Indigenous Movements For Linguistic Security And The Politics Of Local Community' (6 Aboriginal Policy Research Consortium International [APRCi] 2006), available at: <<https://ir.lib.uwo.ca/aprci/266>> [accessed 16 June 2020]

- Osiejewicz J., 'Supranational Protection Of Language Rights In Universal And European Context' (17 Bajo Palabra 2017), available at: <<https://revistas.uam.es/bajopalabra/article/view/8952>> [accessed 27 May 2020]
- Reyes Godelmann I., 'The Zapatista Movement: The Fight For Indigenous Rights In Mexico - Australian Institute Of International Affairs' (Australian Institute of International Affairs 2014), available at: <<http://www.internationalaffairs.org.au/news-item/the-zapatista-movement-the-fight-for-indigenous-rights-in-mexico/>> [accessed 16 June 2020]
- Rosset, P., Martínez-Torres, M. & Hernández-Navarro L., 'Zapatismo in the Movement of Movements' (48 Development 2005), pp. 35–41, available at: <<https://doi.org/10.1057/palgrave.development.1100139>> [accessed 6 August 2020]
- Stahler-Sholk R., *The Zapatista Social Movement: Innovation and Sustainability, in Alternatives: Global, Local, Political* (35(3) Sage Publications Inc. 2010), available at: <<https://doi.org/10.1177/030437541003500306>> [accessed 7 August 2020]
- Tamburini L., 'Indigenous World 2019: Bolivia - IWGIA - International Work Group For Indigenous Affairs' (*Iwgia.org*, 2019), available at: <<https://www.iwgia.org/en/bolivia/3389-iw2019-bolivia.html>> [accessed 25 July 2020]
- 'Why Education Reform Alone Won't Save Bolivia's Indigenous Languages' (*Worldpoliticsreview.com*, 2017), available at: <<https://www.worldpoliticsreview.com/trend-lines/21941/why-education-reform-alone-won-t-save-bolivia-s-indigenous-languages>> [accessed 25 July 2020]

### Legal Documents

- Council of Europe, *European Charter for Regional or Minority Languages*, 4 November 1992, ETS 148, available at: <<https://rm.coe.int/168007bf4b>> [accessed 28 May 2020]
- Council of Europe, *Framework Convention for the Protection of National Minorities*, 1 February 1995, ETS 157, available at: <<https://rm.coe.int/16800c10cf>> [accessed 28 May 2020]
- IA CommHR, Rapporteur on the Rights of IPs, *IPs in Voluntary Isolation and Initial Contact in the Americas*, OEA/Ser.L/V/II., Doc. 47/13, 30 December 2013, available at: <<http://www.oas.org/en/iachr/indigenous/docs/pdf/Report-Indigenous-Peoples-Voluntary-Isolation.pdf>> [accessed 3 May 2020]
- International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, available at:

<[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169)> [accessed 3 May 2020]

Organization of American States (OAS), *American Convention on Human Rights "Pact of San Jose, Costa Rica"*(B-32), 22 January 1969, available at: <[https://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights.pdf](https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.pdf)> [accessed 3 May 2020]

Organization of American States (OAS), *American Declaration on the Rights of Indigenous Peoples*, AG/RES.2888 (XLVI-O/16) (June 15, 2016), available at: <[http://cdn7.iitc.org/wp-content/uploads/AG07150E06\\_web.pdf](http://cdn7.iitc.org/wp-content/uploads/AG07150E06_web.pdf)> [accessed 3 May 2020]

Permanent Forum on Indigenous Issues, *Action Plan For Organizing The 2019 International Year Of Indigenous Languages* (United Nations Economic and Social Council 2018) <<https://en.iyil2019.org/wp-content/uploads/2018/09/N1804802.pdf>> [accessed 16 June 2020]

Permanent Forum on Indigenous Issues, *Summary Report On The International Year Of Indigenous Languages* (United Nations Economic and Social Council 2019) <<https://undocs.org/en/E/C.19/2020/9>> accessed 16 June 2020

Permanent Forum on Indigenous Issues, *Indigenous Peoples and Boarding Schools: A comparative Study* (United Nations Economic and Social Council 2009)

UN Educational, Scientific and Cultural Organisation (UNESCO), *Convention against Discrimination in Education*, 14 December 1960, available at: <[http://portal.unesco.org/en/ev.php-URL\\_ID=12949&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html)> [accessed 28 May 2020]

UN Educational, Scientific and Cultural Organisation (UNESCO), *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, 20 October 2005, available at: <[http://portal.unesco.org/en/ev.php-URL\\_ID=31038&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html)> [accessed 7 August 2020]

UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, available at: <<https://www.refworld.org/docid/471355a82.html>> [accessed 6 August 2020]

UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <<https://www.un.org/en/universal-declaration-human-rights/>> [accessed 27 May 2020]

- UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, available at: <<https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>> [accessed 28 May 2020]
- UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, available at: <<https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>> [accessed 28 May 2020].
- UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 3 February 1992, A/RES/47/135, available at: <[https://www.ohchr.org/Documents/Issues/Minorities/Booklet\\_Minorities\\_English.pdf](https://www.ohchr.org/Documents/Issues/Minorities/Booklet_Minorities_English.pdf)> [accessed 28 May 2020]
- UN Human Rights Committee (HRC), *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, 8 April 1994, CCPR/C/21/Rev.1/Add.5, available at: <<https://indianlaw.org/sites/default/files/resources/UN%20OHCHR%20Comments%20on%20Article%2027.pdf>> [accessed 28 May 2020]
- UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 9, Rev. 2, Indigenous Peoples and the United Nations Human Rights System*, August 2013, No. 9, Rev. 2 available at : <<https://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf>> [accessed 3 May 2020]