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INDIGENOUS CUBA

What value has indigeneity in the biggest island of the Antilles?

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ABSTRACT

The indigenous groups that lived in Cuba since pre-colonial times are believed to have been exterminated within 60 years from first contact. Nationalism has taken over indigenism through time, first during the War of Independence, then the second time during the Cuban Revolution, defending the idea of an all-embracing and uniformed identity for the ‘Cuban’, claiming that everyone was indigenous, therefore the island itself was indigenous.

This dissertation aims to investigate, through the analysis of mainly historical sources and international documents, if it is currently possible to identify a distinct indigenous population in the biggest island of the Antilles. The thesis has found that several historical and political events have led to the way in which today the Cuban State portrays indigeneity. While several traditional elements dating back to before the Spanish conquest still live to this day and families with high percentages of indocuban blood still live in the mountainous regions of the island, they do not properly identify as indigenous. They instead mainly associate themselves with being ‘indigenous Cuban’, in the way which is currently the only politically indisputable indigeneity in Cuba.

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Introduction. Positionality and Methodology.

This research tries to analyze Cuban's conception of indigeneity, through the rapid evolution of what being indigenous means that the island has undergone at least since the nineteenth century.

Before the Spaniards arrived, the island was populated by three indigenous groups: the Taínos, that were the most populous, constituting 90% of the island's inhabitants, and also the most developed, peoples of ceramists and farmers in the eastern end; the Siboyenes, fishermen from the central southern coast; the Guanahatabeyes, described as savage in their way of life as well as less developed. They lived in caves in the northernmost region¹.

Indigenous groups in Cuba are deemed to have been exterminated within 60 years from first contact².

Nationalism, a necessary feeling among people at the time, while being owned and governed by Spain for centuries, has taken over indigenism through time. The second rise of nationalism, during the Cuban Revolution, defended the idea of an all-embracing and uniformed identity for the 'Cuban', claiming that everyone was indigenous, therefore the island itself was indigenous. This was to mean that every person — no matter their ethnicity or roots, but likely with a majority of mestizos or mulatos — was a Cuban indigenous. What is left of Taíno indigenous today?

This work starts with an introductory, more general first chapter about the role that indigenous peoples have (not) had for centuries in International Law. The chapter also analyzes the elements associated with the term 'indigenous', as per various, especially in terms of historical continuity, distinct identity and being part of a non-dominant group. Several thinkers are also mentioned to give a glimpse of different perspectives on

¹ See *infra*, p. 29.

² See *infra*, p. 28.

colonialism at the time of colonialism itself. The ‘first international document explicitly dealing with indigenous peoples’³, ILO 107, is analyzed in its elements that are relevant for the research.

Assimilation policies in relation to Niezen’s definition of ‘ethnocide’ are mentioned, specifically in Finland, as the country that physically hosted this research process for months and where Prof. Reetta Toivanen teaches a course on Indigenous Rights and International Law, which should be regarded as the first source of knowledge that has allowed the work at hand to exist in the end.

The second chapter analyzes the Indigenous and Tribal Peoples Convention (ILO 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), assessing their differences and their commonalities in scope.

ILO 169 walks the step of ILO 107, going further after years of waiting for reform on the topic of indigenous peoples’ rights. The new Convention recognizes the right to self-determination within a nation-state and sets standards for national governments in the fields of indigenous peoples’ economic, socio-cultural, and political rights. It also maintains that indigenous peoples have the right to participate in the decision-making progress of actions that may impact them⁴.

UNDRIP, adopted in 2007 by the General Assembly of the UN, establishes a global framework by applying human rights to indigenous peoples. Art. 3 is the first provision in an international instrument recognizing the right of indigenous peoples to self-determination⁵. It also establishes the right to Free, Prior and Informed Consent (FPIC): the consent must be free, ‘given voluntarily and without coercion, intimidation or

³ See *infra*, p. 4.
They were still referred to as ‘populations’.

⁴ See *infra*, p. 9.

⁵ ‘Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development’.
With the due specification of Art. 46.
United Nations Declaration on the Rights of Indigenous Peoples, available at: <https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples> (last access July 11, 2023)

manipulation. A process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed⁶. It must be prior, which means ‘sought sufficiently in advance of any authorization or commencement of activities’⁷, and informed – ‘the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process’⁸. Finally, the term ‘consent’ per se is described as ‘a collective decision made by the right holders and reached through a customary decision-making process of the ‘communities’⁹.

In order to be able to exercise their right to self-determination, without contradicting art. 46 UNDRIP¹⁰, it is of paramount importance that indigenous peoples are involved in processes that may affect them, even though this doesn’t minimally equal having the right to veto.

Cuba voted in favor of UNDRIP but never signed ILO 109 (but only 20 countries did¹¹).

Chapter three analyzes Cuba’s historical and sociological background, starting from the early indigenous populations that inhabited the island before colonial times through the Spanish conquest.

Cuba was ‘discovered’ in 1511-1512, by Diego Velázquez, Ramón María Narváez y Campos, and Bartolomé de las Casas. The latter would then write extensively about the Spanish treatment of their colonies, or ‘the Indies’. Living conditions for indocubans had

⁶ FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS, Free, Prior and Informed Consent, available at [Free, Prior and Informed Consent | Indigenous Peoples | Food and Agriculture Organization of the United Nations \(fao.org\)](https://www.fao.org/3/a/i2590e.htm) (last access: July 11, 2023)

⁷ *IBID.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Internal self-determination, see *infra* pp. 12-16.

¹¹ Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Guatemala, Honduras, Mexico, Nepal, Netherlands, Norway, Paraguay, Peru, Spain, Bolivarian Republic of Venezuela.

become so hard under the Spanish rule that the population had to be replenished through slave trade from the United States and Africa¹².

After three centuries, a sentiment of rebellion started growing on the island of Cuba, which led to thirty years of conflicts between mambises¹³ and the Spanish army. One of the key figures of the independence movement in Cuba was Antonio Maceo, who became the first black General of the Mambí Army, having to face racial setbacks in his military career. A role whose importance would then transcend centuries is that of José Martí, who started passionately writing against the Spanish dominion in his teenage years, after having first-hand testimony of the rough living conditions of the eastern areas of the island¹⁴. The image of the indigenous as portrayed by Martí was so effective that its power only was invigorated in the twentieth century when, after decades under the control of the U.S., was awakened the need for Cuban people to be free from a foreign power once again. The post-revolutionary government used an image of indigeneity as only ‘containing’ Taínos, in virtue of how they contributed to the present Cuban citizen: a mixed, indigenous one. There is, in Castro’s narrative, an identification between the Revolution and the ‘Necessary War’¹⁵.

The fourth chapter is about the rocky relationship between the Organization of American States (OAS) and Cuba¹⁶, in particular its suspension from the Organization in 1962. It also mentions the American Convention on Human Rights of 1969 and the American Declaration on the Rights of Indigenous Peoples of 2016. The latter applies ‘to the

¹² See *infra*, p. 19.

¹³ The Cuban National Army of Liberation.

¹⁴ See *infra*, p. 23.

¹⁵ The Cuban War of Independence.

¹⁶ That was, ironically, one of its founding members in 1948 in Bogotá.

indigenous peoples of the Americas’¹⁷. It affirms principles and rights that are very close to those underlying UNDRIP¹⁸.

The fifth and last chapter faces questions on Cuban indigeneity, and what it means to be indigenous in Cuba, especially through the help of one of the projects that have been essential to this research: Cuba Indígena Hoy¹⁹.

The idea behind this work was born in between the first reading of Larry Catà Baker’s article ‘From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples’²⁰ and the will to search for the culture within the culture. My mother still bears the Maceo surname and was born in Yara, as her mother and her mother’s mother. As it is not uncommon in the mixed-cultures experience, I have refused to acknowledge Cuban culture for more than half the time I have lived. Since going to Pinar del Río for the first time during my childhood, though, I have cultivated a hidden curiosity for the precolonial inhabitants of the island I was born in.

In Cuba, kids grow up watching Elpidio Valdés, a mambí colonel fighting against the Spaniards to liberate his dear homeland. Traces of indocuban culture are still identifiable within recipes, practices, housing, yet the indigenous is presumed dead.

As a person with a multicultural background, Cuban and Italian, this research is likely influenced in part by what some could deem a partial perspective, but to be relevantly partial the author would have had to approach the research being at least minimally knowledgeable in the topic, which is not the case. The research was conducted with

¹⁷ Art. 1, American Declaration on the Rights of Indigenous Peoples, available at: <https://www.oas.org/en/sare/documents/DecAmIND.pdf> (last access: July 11, 2023)

¹⁸ See *infra*, p. 34.

¹⁹ MARCHECO, B. HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., Cuba Indígena Hoy: Sus Rostros y ADN, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022.

²⁰ CATÀ BAKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, pp. 201-238.

genuine curiosity for the understanding of the invisible, or at least not widely spoken of, mechanisms that have made indigenous history and current-day – if any – in Cuba. It is approached with an anti-capitalistic and anti-imperialist gaze, as well as by someone who comes from a legal background and from a human rights perspective.

The present work owes a great deal to Cuba Indígena Hoy, the result of a long-requested and needed project on indocuban descendants in the island, and to the person through which I have obtained this research, Prof. Lisette Roura Alvarez, Director of the Archeological Cabinet of Havana.

The research uses a quantitative method for geographical reasons, going through a historical analysis that was conducted with the biggest goal of impartiality, giving importance to both historical events and literature in how, together, they have influenced the present perception of indigenous Cuban people. What gave foundation to this thesis as well was, once again, Cuba Indígena Hoy, as the most valuable resource encompassing the physical distance between the author and the live testimony of indocuban descent.

The question arising from Larry Catà Baker's paper²¹ was: to what extent can one say there is still a distinct indigenous population in Cuba, 'the island that defines itself indigenous', and how does it relate to the internationally accepted indigenous standard?

²¹ *Ibid.*

1. Indigenous Peoples in International Law, a brief overview

The term ‘indigenous’ can be said to have different meanings, or better said different shades of meaning.

According to the Cambridge Dictionary, the term ‘indigenous’ is ‘used to refer to, or relating to, the people who originally lived in a place, rather than people who moved there from somewhere else’²².

In the opinion of the former Special Rapporteur of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, Francesco Capotorti²³, minorities are ‘a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language’²⁴.

Ten years later, José Martínez Cobo, in his capacity as Special Rapporteur on the Problem of Discrimination against Indigenous Population of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, considered indigenous peoples as

‘those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-

²² ‘Indigenous’, Cambridge Dictionary, available at: <https://dictionary.cambridge.org/dictionary/english/indigenous> (last access 22 March 2023).

²³ Special Rapporteur to carry out a Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities.

²⁴ CAPOTORTI F., The recognition of minorities in the legal systems of States, Study on the rights of persons belonging to ethnic, religious and linguistic minorities, United Nations, 1977, para. 567, p. 96.

dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems'²⁵.

There are some essential elements to being indigenous, clearly identifiable after reading the aforementioned statements, such as:

- historical continuity with pre-colonial societies;
- strong link to territories and surrounding natural resources;
- distinct social, economic or political systems;
- distinct language, culture and beliefs;
- being a non-dominant group of society;
- resolve to maintain and reproduce one's ancestral environments and systems as a distinct community.

If on one hand there is great variety of characteristics in the ways one can qualify indigenous peoples at the international level, on the other it appears necessary to briefly highlight some key developments of the role of the indigenous in International Law throughout history, and this can be done also by referencing primarily the Northern American indigenous experience.

When international law was still referred to as the "Law of Nations", indigenous peoples did not fall under its scope because they were not recognized as nations or states and thus unable to enjoy rights as distinct communities²⁶. Drawing from Anaya's perspective in 'Indigenous Peoples in International Law', this work will try to discuss partially the history of international law in some of its interactions with the treatment of indigenous

²⁵ MARTÍNEZ COBO J. R., Ideas for the definition of indigenous populations from the international point of view, Study of the problem of discrimination against indigenous populations. Volume 5, Conclusions, proposals and recommendations, United Nations, 1987, para. 379, p. 29.

²⁶ It appears necessary to specify, though, that they were long also excluded from the reach of international law.

peoples, in ‘an effort to provide a contextual backdrop for assessing international law as it concerns today’s indigenous peoples’²⁷.

The early jurisprudence in Europe dealing with international law and at the same time the status of indigenous peoples was based on the belief in a source that came from a higher authority, a heritage of ‘medieval European ecclesiastical humanism’.²⁸ Among other jurists, Francisco de Vitoria²⁹ maintained that Indigenous populations had ab origine rights to land and independent powers, but at the same time he defended the legitimacy of the Spanish conquest for ‘their own interest’. This belief was based on the sole fact that the systems in which those populations lived in did not fit the European standard in any field. In his *De indis et de ivre belli relectiones*, after an introduction on the legitimacy of the dispute, he articulated several questions among which:

‘Question 1, Article 1: Whether these barbarians, before the arrival of the Spaniards, had true dominion, public and private? That is to say, whether they were true masters of their private chattels and possessions, and whether there existed among them any men who were true princes and masters of the others. It may seem in the first place that they have no right of ownership (*dominium rerum*)’³⁰.

After confirming that the ‘barbarians’ had judgement and ‘order of affairs’, even if close to ‘brute animals’, de Vitoria answered his fictitious question as following:

²⁷ ANAYA J., *Indigenous Peoples in International Law*, Oxford University Press, 1996, p. 9.

²⁸ *Ibid.*, pp. 10-15.

²⁹ Francisco de Vitoria (1483-1546) was primarily a Spanish-Roman professor of theology at the University of Salamanca, but also a philosopher and a jurist.

³⁰ VITORIA F. DE, ‘On the American Indians’ in PAGDEN, A. and LAWRENCE, J. (eds), *Vitoria: Political Writings*, Cambridge University Press, 1991, p. 239.

‘The conclusion to all that has been said is that the barbarians undoubtedly possessed as true dominion, both public and private, as any Christians. That is to say, they could not be robbed of their property, either as private citizens or as princes, on the grounds that they were not true masters (*ueri domini*). It would be harsh to deny to them, who have never done us any wrong, the rights we concede to Saracens and Jews, who have been continual enemies of the Christian religion. Yet we do not deny the right of ownership (*dominium rerum*) of the latter, unless it be in the case of Christian lands which they have conquered’³¹.

Vitoria humanizes and de-humanizes the indigenous at the same time, as Christian Europeans reserved better treatment to Jews and Saracens, who surely were closer to European societal standards.

The act of European conquest was regarded as *iustum*, or more accurately as a *bellum iustum*³², but still not identifiable with title by discovery since the legitimacy of the occupation was based on the arguments that the ‘barbarians’ interfered with the Spaniards’ freedom of travel, refused trade with them and resisted conversion to Christianity³³.

Two centuries later, Emer de Vattel, probably influenced by his teacher Christian Wolff³⁴ and Hugo Grotius³⁵, in his ‘Law of Nations’ (1758) would lay the foundation for state sovereignty and thus international law. In his conception, the consequences of natural law vary accordingly when applied to states and when applied to individuals³⁶. Even

³¹ *Ibid.*, pp. 250-251.

³² This concept was further developed by Hugo Grotius (1583-1645), though not in close interrelatedness with indigenous populations, in his ‘Law of War and Peace’ (1625).

³³ *Ibid.*, *ex alia* p. 284.

³⁴ De Vattel was, in fact, his disciple.

³⁵ Regarded as ‘the father of International Law’.

³⁶ ‘There certainly exists a natural law of nations, since the obligations of the law of nature are no less binding on states, on men united in political society, than on individuals. [...] It did not escape the notice of the author we have just quoted, that the rules and decisions of the law of nature cannot be purely

considering Vattel's broad definition of state – term used interchangeably with 'nation' – it still mirrors a Eurocentric conception of political and societal structures³⁷, not surprisingly.

Vattel's thought was later manipulated into a theory on land property developed by Chief Justice John Marshall of the US Supreme Court: the 'discovery doctrine'. According to this principle, the first European power 'to lay claim to Indian land had the sole right of acquiring it from the Indians, and the Indians could not convey rights in the land to others'³⁸. What remained to the tribes was an occupancy right, alienable only to that same discovering sovereign or someone that had obtained an authorization by the sovereign. While some tribes – as the Cherokee Nation – were considered a 'domestic dependent nation'³⁹, some others were not even given that qualification. Thus, there were different ways of treating different Peoples based on how much they conformed to Western governance standards.

Shortly after, in Wheaton's 'Elements of International Law', it became even more crystal clear that to be classified as subjects of international law, Indigenous tribes had to fit a Western standard in how they organized politically and socially as well as how they used

and simply applied to sovereign states, and that they must necessarily undergo some modifications in order to accommodate them to the nature of the new subjects to which they are applied. But it does not appear that he discovered the full extent of this idea, since he seems not to approve of the mode of treating the law of nations separately from the law of nature as relating to individuals'. VATTEL, E. DE, "Preface", in *The Law of Nations or the Principles of Natural Law*, 1758. Source: <https://lonang.com/library/reference/vattel-law-of-nations/>

³⁷ 'Although he did not hold expressly that a society based on sedentary pursuits was a prerequisite for statehood, he did accept the view that cultivating land established a greater right to the land than did hunting or gathering. Later theorists expanded upon the distinction between sedentary and hunter-gatherer societies as a basis for denying indigenous peoples not only land rights but also status as nations or states subject to international law.

Vattel's ambiguity on the status of indigenous peoples was compounded by his statements on the condition of political communities falling under the authority of others. On the one hand Vattel held that a state does not lose its sovereignty or independent status by placing itself under the protection of another as long as it retains its powers of self-government.⁷² On the other hand Vattel stated, almost as if to beg the question, that once "a people . . . has passed under the rule of another, [it] is no longer a State, and does not come directly under the Law of Nations. Of this character were the Nations and the Kingdoms which the Romans subjected to their Empire".' *Id.* note 5, Anaya J., 1996, p. 16.

³⁸ *Ibid.*, p. 18.

³⁹ Affirmed in *Cherokee Nation v. Georgia*, 30 U.S. 5 Pet. 1 1 (1831). Available at: <https://supreme.justia.com/cases/federal/us/30/1/> (last access: 28 march 2023).

land – like the Cherokee, that Wheaton listed among the subjects of the so-called Law of the Nations. Those who didn't fit this standard, remained 'an unsettled horde of wandering savages not yet formed into civil society'⁴⁰. The consequence of this view was that international law considered pre-colonial Indigenous lands *terra nullius*⁴¹ and even recognized the doctrine of trusteeship⁴².

In the second half of XX century, after the two World Wars, human rights emerged as a stronger concept: the globe was horrified after the extermination of Jews, Sinti, queer people, Roma people, and others in the Nazi camps. In 1945 the United Nations were born, and one year after the League of Nations ceased to exist.

The first international document that recognizes the need to protect Indigenous Peoples is the Universal Declaration of Human Rights (UDHR) in 1948. This might seem a surprisingly early achievement, compared to what one could expect after going through this chapter, but the UDHR never mentions Indigenous Peoples or groups, they are simply included because of the universal character of the instrument. The Declaration, in fact, only concerns the individual rights of Indigenous groups at best.

The first international document explicitly dealing with indigenous peoples is the Indigenous and Tribal Populations Convention, adopted On June 26, 1957, and entered into force on June 2, 1959, referred to also as ILO 107. To better understand the context in which it was adopted, it should be said that it took 11 years to finish drafting ILO 107. After World War II, the international community was concerned with the protection of minorities and how 'indigenous and other tribal and semi-tribal populations in independent countries'⁴³ were being integrated. In this context, in 1946 the International Labor Organization (ILO), along with the United Nations, the Food and Agriculture

⁴⁰ Anaya J., 1996, pp. 18-19.

⁴¹ *Ibid.*, p. 22.

⁴² According to the 1919 Covenant of the League of Nations, all League Members committed to 'undertake to secure the just treatment of the native inhabitants of territories under their control'. See *ibid.*, p. 25.

⁴³ Preamble, *Indigenous and Tribal Populations Convention, 1957 (No. 107)*.

Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the World Health Organization (WHO) began drafting the Convention.

Coming from the International Labor Organization, this Convention aimed to ensure that those particular categories – still not referred to as ‘peoples’ – could participate in the wake of post-war national development.

ILO 107 applied to ‘members of tribal or semi-tribal populations in independent countries whose social and economic conditions are at a less advanced stage than the stage reached by the other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions’⁴⁴ and which, ‘irrespective of their legal status, live more in conformity with the social, economic and cultural institutions of that time [of conquest or colonization] than with the institutions of the nation to which they belong’⁴⁵ and defined them as ‘groups and persons who, although they are in the process of losing their tribal characteristics, are not yet integrated into the national community’⁴⁶.

There number one problem with ILO 107 is that it still regarded indigenous peoples as groups, of tribal and semi-tribal nature, assembled in communities perceived as inferior when compared to the European-derived standard, which was regarded as the best – and only – solution to build an organized society where everyone could coexist (of course, as long as they fit the standard). From this biased point of view, comes the absolute conviction that the ‘different’, the indigenous, should have conformed to the ‘institutions of the nation to which they belong’⁴⁷ sooner or later. It was not optional⁴⁸.

Another controversial detail of the Convention is that it affirmed indigenous’ land rights – ‘the right of ownership, collective or individual, of the members of the populations

⁴⁴ Article 1, lett. a, *ibid.*

⁴⁵ Article 1, lett. b, *ibid.*

⁴⁶ Article 2, *ibid.*

⁴⁷ See *supra*, note 20.

⁴⁸ As *supra* in note 21, Art. 2 reads ‘not yet integrated into the national community’.

concerned over the lands which these populations traditionally occupy shall be recognized'⁴⁹ – but on the other hand it didn't really try to restrict states' power, as 'the populations concerned [could] not be removed without their free consent from their habitual territories except in accordance with national laws and regulations for reasons relating to national security, or in the interest of national economic development or of the health of the said populations'⁵⁰. The reasons that could justify indigenous peoples' removal were too broad and it wasn't specified how concrete the risks to national security or to the populations' health or the interest of 'national economic development' needed to be for them to give grounds for displacement, only providing them with full compensation for 'any resulting loss or injury'⁵¹.

The need to make changes in ILO 107 is not something so recent as one could think, as already in 1987 an article in *The American Journal of International Law* noted that 'sharing decision-making power with these "less advanced" groups [...] was taken no farther than "collaboration" with their leaders, and respect for their customs was encouraged only to the extent compatible with "the objectives of integration programmes".'⁵² Integration or assimilation policies were very popular until not much longer than thirty years ago, in several countries throughout the globe, and they included the prohibition of using indigenous' languages⁵³, practicing a different religion, as well as passing on traditions.

Apart from the American continent, for the sake of completeness and comparison, a European example of assimilation policies can be made. In Finland, the situation for indigenous peoples has been very complex, especially in the past. Here, in the aftermath of World War II, the Sámi already present in the country (the larger North Sámi-speaking

⁴⁹ Article 11, *Indigenous and Tribal Populations Convention, 1957 (No. 107)*.

⁵⁰ Article 12.1, *ibid.*

⁵¹ Article 12.3, *ibid.*

⁵² BARSH, R. L., Revision of ILO Convention No. 107, in *The American Journal of International Law*, Jul. 1987, Vol. 81, No. 3, p. 757.

⁵³ It appears necessary to specify that ILO 107 was not condoning a prohibition of this kind.

group, and the smaller being the Inari Sámi) had to welcome another indigenous population resettled in the Finnish territory – specifically in Inari, thus sharing land with Inari Sámi – coming from Russia: the Skolt Sami. In this sociological context, Sámi peoples also had to face the Law on Compulsory Education that had entered into force in the country in 1946. According to this provision, indigenous families were forced to send their kids to boarding schools, where it was forbidden to speak Sámi (even between siblings!), the only language they were familiar with. This policy almost managed to wipe out all Sámi languages.⁵⁴

This is just an example of what happened in several other countries like Australia, Canada, New Zealand, the United States and in some way – as it will be explained infra – in Cuba. This form of oppressing a different culture⁵⁵ can be referred to, in the words of Niezen, as “Ethnocide”, sometimes also called “cultural genocide” [which] occurs more often where the state has a firm grip over a subject people but is still striving to secure its national identity. It is usually manifested in policies or programs of “assimilation” aimed at eliminating stark cultural differences and rival claims to sovereignty that arise from first occupation of a territory. Its goal is the elimination of knowledge of, and attachments to, distinct and inconvenient ways of life⁵⁶.

Ethnocide can be described as an institutionalized form of oppression, that rarely generates backlash while it happens since it strives to keep the status quo of the majority population. This could be regarded as a very smart way to eradicate a culture without physical violence, especially if one focuses on the historical context⁵⁷.

⁵⁴ TOIVANEN, R., Obstacles and Successes: Comparing Minority Language Activism among the Sorbian in Germany and the Saami in Finland, in MARTEN, H., RIESSLER, M., SAARIKIVI, J. and TOIVANEN, R. (eds.) *Cultural and linguistic minorities in the Russian Federation and the European Union, Springer Language Education and Linguistics*, 2015, p. 98.

⁵⁵ Often Indigenous as is the case this work is addressing.

⁵⁶ NIEZEN, R., *The Origins of Indigenism: Human Rights and the Politics of Identity*, University of California Press, 2003, p. 55.

⁵⁷ With the spotlight that human rights were obtaining after the two World conflicts, a new standard was set, but the attention was probably still more focused on collective acts of tangible and evident violence against minorities, rather than cultural erasure.

As for the Caribbean, and more specifically Cuba, where Taínos are said to be close to extinct, ‘Caribbean political and revolutionary elites have, over the course of the last several centuries, deployed a political and uni-racial *mestizaje*⁵⁸ and *mulatería*⁵⁹ as a new standard of purity, which was first used against Spanish race hierarchies of the colonial period. They then used these against the racial purity of politics deployed by North Americans in their quest to replace Spain as the dominant colonial power in the Hemisphere. Its continued utility in Cuba stands out in contrast to its abandonment in much of Latin America after the 1940s⁶⁰. This political approach to the Caribbean and Cuban population, regardless of the intentions, is still following an idea of ‘uniformity’⁶¹ that is damaging to the flourishing of a varied, culturally rich population with a multitude of different voices all in need to be equally heard. In the following chapter, two more international instruments will be analyzed, in light of this first brief consideration on the country the work is focusing on.

⁵⁸ Here the author specifies that *mestizos* was the term used for people with a mix of Indian and European (mostly Spanish) ancestry.

⁵⁹ This term refers to people whose ancestry is mixed between European and African. The author proposes two authors for a discussion on the theme, which is extremely interesting but not relevant to this work. For the sake of completeness, though, the authors and respective works in question are JACKSON, R. H., *Race, Caste, and Status: Indians in Colonial Spanish America*, 1999; BUSCAGLIA-SALGADO J., *Undoing Empire: Race and Nation in the Mulatto Caribbean*, 2003.

⁶⁰ CATÀ BACKER, L., *From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples*, in *American Indian Law Review*, No. 33, 2009, pp. 202-203.

⁶¹ The same idea pursued by the assimilation policies, but with a different approach.

2. The Indigenous and Tribal Peoples Convention (ILO 169) and the United Nations Declaration on Indigenous Peoples Rights (UNDRIP)

2. 1. ILO 169

This second chapter will analyze two instruments: the Indigenous and Tribal Peoples Convention of 1989, also referred to as ILO 169, and the United Nations Declaration on Indigenous Peoples Rights (UNDRIP) of 2007. The first recognizes the right to self-determination within a nation-state and sets standards for national governments in the fields of indigenous peoples' economic, socio-cultural, and political rights – among which a fundamental category is land rights (Artt. 13-19). Furthermore, ILO 169 safeguards indigenous peoples' rights to participate in decision-making processes that concern them or impact them, along with healthcare, education (including in their own language), and equal employment rights⁶². On the other hand, UNDRIP protects collective rights but also the individual rights of indigenous peoples, including rights to self-determination (Art. 3), 'autonomy or self-government in matters relating to their internal and local affairs' (Art. 4), etc.

There are certain main differences between these two international instruments, apart from those listed above:

- ILO 169 was ratified only by 20 States, while UNDRIP was adopted in the General Assembly by a majority of 144 States (with only 4 voting against, that currently support the Convention)⁶³;
- ILO 169 defines indigenous peoples in its Statement of Coverage⁶⁴, while UNDRIP doesn't give any sort of definition.

⁶² See respectively: artt. 25, 27, 28, 20-23.

⁶³ ANAYA J., *The rights of indigenous peoples*, min. 11-12, <https://www.youtube.com/watch?v=OK9tCC3A4go&t=1279s>

⁶⁴ 'a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

- ILO 169 is legally binding, while UNDRIP is not. Both instruments are still fundamental, as they address the same global issues from different perspectives and with different effects.

As mentioned supra⁶⁵, the necessity to reform ILO 107 was raised in 1987, when the International Labor Organization convened a group of 15 experts that ‘recommended substantial changes in [the Convention], which for nearly 30 years has been the only binding international instrument on the rights of indigenous and tribal peoples’⁶⁶. In 1989, this demand was shaped into the Indigenous and Tribal Peoples Convention, or ILO Convention 169⁶⁷.

ILO became a UN-specialized agency in 1945, but it was created way earlier, as part of the Treaty of Versailles⁶⁸. Its peculiarity is that it is the only UN agency that presents a ‘tripartite’ structure⁶⁹, articulated between governments, employers’ and workers’ organizations⁷⁰.

As mentioned above, ILO 169 was ratified only by 20 States⁷¹. This is mostly due to the fact that ILO Conventions can only be ratified without reservations, ‘therefore it is important that governments, indigenous peoples, traditional ILO constituents (workers

b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions’.

⁶⁵ See note 27.

⁶⁶ BARSH, R. L., Revision of ILO Convention No. 107, in *The American Journal of International Law*, Jul. 1987, Vol. 81, No. 3, p. 756.

⁶⁷ Adopted June 27, 1989, and entered into force September 5, 1991.

⁶⁸ History of the ILO, <https://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm> (last access 3 May 2023).

⁶⁹ This structure doesn’t allow indigenous representatives to have a formal role in the agency.

⁷⁰ More on ILO’s structure: <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/lang--en/index.htm> (last access 3 May 2023).

⁷¹ Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Guatemala, Honduras, Mexico, Nepal, Netherlands, Norway, Paraguay, Peru, Spain, Bolivarian Republic of Venezuela.

and employers) as well as other stakeholders are fully informed about the provisions of the Convention as well as the implications of ratification. Moreover, this is important for generating ownership of the post-ratification implementation process; and by involving these principal actors, their participation in the implementation of the Convention is usually better guaranteed⁷².

Compared to ILO 107, the new Convention presents an integral approach⁷³. In its Preamble, it recalls the terminology of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and ‘the many international instruments on the prevention of discrimination’. Differently from the previous Convention, ILO 169 sees cooperation also from the Inter-American Indian Institute.

In the first Article, concerning the subjects the Convention applies to, there is already a change in the definition of ‘tribal peoples’, as those ‘whose social, cultural and economic conditions distinguish them from other sections of the national community’⁷⁴ as well as those who ‘retain some or all of their own social, economic, cultural and political institutions’⁷⁵. In the same Article, self-identification is introduced as ‘a fundamental criterion for determining the groups to which the provisions of this Convention apply’⁷⁶. The acceptance of self-identification in an instrument of international nature is of paramount importance, despite the low number of ratifications, since it still represents a

⁷² Indigenous & Tribal Peoples’ Rights in Practice - A Guide to ILO Convention, Programme to Promote ILO Convention no. 169 (PRO 169), International Labor Standards Department, 2009, p. 175.

⁷³ Integral theory: ‘the word integral means comprehensive, inclusive, non-marginalizing, embracing. Integral approaches to any field attempt to be exactly that: to include as many perspectives, styles, and methodologies as possible within a coherent view of the topic. In a certain sense, integral approaches are “meta-paradigms,” or ways to draw together an already existing number of separate paradigms into an interrelated network of approaches that are mutually enriching’. Available at: <https://integralwithoutborders.org/integral-approach.html> (last access 5 May 2023)

⁷⁴ Art. 1, no. 1, lett. a, *Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. For the previous definition (ILO 107), see *supra*, note 19.

⁷⁵ Art. 1, no. 1, lett. b, *ibid.*

⁷⁶ Art. 1, no. 2, *ibid.*

recognition that is salient both towards non-indigenous as well as within indigenous groups⁷⁷.

In the second Article of the Convention, compared to ILO 107, the focus shifts from integration ‘into the life of their respective countries’ to the protection of the rights and respect of the integrity of these peoples. Furthermore, the actions aimed to the protection aforementioned ought to ‘include measures for: [...] promoting the full realization of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions’⁷⁸. In this passage, the influence of the relatively new⁷⁹ International Covenant on Economic, Social and Cultural Rights (ICESCR) is especially evident, even though it can be perceived throughout the whole Convention. The same can be affirmed about the International Covenant on Social and Cultural Rights (ICSCR)⁸⁰.

Throughout the whole Convention, the role of cooperation with indigenous peoples and their representatives has changed and evolved up to the point that not only any reference to assimilation⁸¹ has disappeared; moreover, the adoption of special measures to protect anything concerning the peoples and their ‘institutions, property, labor, cultures and environment [...] shall not be contrary to the freely-expressed wishes of the peoples

⁷⁷ For an interesting reading on the topic of self-identification: CURRY, Matthew and LEE, Rennie, Indigenous self-identification across generation: parent-child links in Australian survey data, in *Journal of Ethnic and Migration Studies*, 2023, Vol. 49, No. 9, pp. 2310-2331.

⁷⁸ Art. 2, no. 2, lett. b, *Indigenous and Tribal Peoples Convention, 1989 (No. 169)*.

⁷⁹ Adopted on December 16, 1966, and entered into force on January 3, 1976. E.N. ‘New’ in the sense that it was adopted after ILO 107.

⁸⁰ Same adoption and entry into force dates as the ICESCR. ICSCR is particularly relevant because it states, in its Article 1, the right of all peoples to self-determination. Its influence can be seen as well in Article 5 of ILO 169, that deals with freedom of religion.

⁸¹ Article 8, nno. 1-2, *Indigenous and Tribal Peoples Convention, 1989 (No. 169)*: ‘1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws. 2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle’.

See also Part IV of the Convention, about Education and means of communication.

concerned'⁸². In addition, according to Article 6.1, 'in applying the provisions of [the] Convention, governments shall: a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly [...]', and to Article 7 '[...] In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly'⁸³.

The new standards posed for indigenous and tribal peoples by ILO 169, compared to any previous international instrument, are unprecedented. This, along with the impossibility of ratifying with reservations, could explain why Cuba, among many other countries, hasn't ratified it.

2. 2. The United Nations Declaration on the Rights of Indigenous Peoples

The most relevant intergovernmental document after ILO 169, in this work's perspective, is certainly the United Nations Declaration on Indigenous Peoples Rights (UNDRIP). The latter was adopted by the General Assembly on September 13, 2007, representing the first formal recognition of a series of standards protecting indigenous rights at a global level. Upon this premise, UNDRIP articulates a constellation of rights that are deemed inherent to indigenous peoples, based on raw principles of human rights, as 'it establishes a universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of the world and it elaborates on existing human rights standards

⁸² Art. 4, nno. 1-2, lett. b, *ibid.*

⁸³ Art. 7, no. 1, *ibid.*

and fundamental freedoms as they apply to indigenous peoples⁸⁴. The Declaration was a matter of debate over at least 25 years.

The first two Articles establish the principle of equality for indigenous peoples, stating that ‘indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law’⁸⁵, and remarking ‘indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity’⁸⁶. Two dimensions are highlighted in these provisions, the individual and the collective, and this ambivalence is reflected throughout the whole document. The protection is specified as indigenous persons can face individual discrimination, but the collective element has been present since the very beginning, historically tied to colonialists or settlers that enslaved and exterminated the indigenous communities. Those who survived were slowly forced to assimilate⁸⁷.

The UNDRIP is the first international instrument explicitly considering the right to self-determination for indigenous peoples. In its Article 3, it states that ‘indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development’⁸⁸. The next article further specifies this right: ‘indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to

⁸⁴ United Nations Declaration on the Rights of Indigenous Peoples, *United Nations*, available at <https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples> (last access: 12 May 2023)

⁸⁵ Art. 1, United Nations Declaration on the Rights of Indigenous Peoples.

⁸⁶ Art. 2, *ibid.*

⁸⁷ See *supra*, chapter one, page 5. For a Northern American perspective on violent assimilation policies and how they still bear consequences today: BARNES, R., and JOSEFOWITZ, N., Indian Residential Schools in Canada: Persistent Impacts on Aboriginal Students' Psychological Development and Functioning, in *Canadian Psychology/Psychologie Canadienne*, 2018, Vol. 60, no. 2.

⁸⁸ Art. 3, *ibid.*

their internal and local affairs, as well as ways and means for financing their autonomous functions'⁸⁹.

Another milestone of the Declaration is the right for indigenous peoples to be recognized as distinct peoples, as one can read in Article 7⁹⁰: 'indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group'⁹¹.

Articles 10, 19, 28, and 32 all address the right to free, prior and informed consent (FPIC).

Free, prior and informed consent is a right specific to Indigenous peoples, as it advocates bottom-up participation and consultation through their representatives, allowing them to give or withhold their consent in the process of a State adopting measures that may affect them or their lands. The consent must be free, 'given voluntarily and without coercion, intimidation or manipulation. A process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed'⁹². It must be prior, which means 'sought sufficiently in advance of any authorization or commencement of activities'⁹³, and informed – 'the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process'⁹⁴. Finally, the term 'consent' per se is described as 'a

⁸⁹ Art. 4, *ibid.*

⁹⁰ Art. 7.2, *ibid.* This right is also implicitly contained in Articles 5 – 'Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State' – and Article 8 – '1. Indigenous Peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture'.

⁹¹ See *supra*, notes 29 and 62.

⁹² FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS, Free, Prior and Informed Consent, available at [Free, Prior and Informed Consent | Indigenous Peoples | Food and Agriculture Organization of the United Nations \(fao.org\)](https://www.fao.org/3/a/i2590e.pdf) (last access: July 11, 2023)

⁹³ *Ibid.*

⁹⁴ *Ibid.*

collective decision made by the right holders and reached through a customary decision-making process of the ‘communities’⁹⁵.

The UNDRIP provisions articulate FPIC differently. Article 10 concerns free, prior, and informed consent in the relocation of indigenous peoples to a different territory or land, which shall not be a forced removal. It concludes that an ‘agreement on just and fair compensation and, where possible, with the option of return’ is part of FPIC. Article 19 establishes an obligation for States to ‘consult and cooperate in good faith with the indigenous peoples concerned’, but through their representatives in fieri of ‘legislation or administrative measures that may affect them’. Article 28 deals with FPIC in a remedial light, specifically for a posteriori compensation for forcible confiscation, taking, occupation, use or damaging: whenever these actions have been carried out without FPIC, ‘indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, of a just, fair and equitable compensation’. The provision also specifies the characteristics of the compensation that shall be demanded in lack of FPIC: ‘Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources in equal quality, size and legal status or of monetary compensation or other appropriate redress’⁹⁶. Finally, Article 32 takes it further by applying FPIC specifically ‘to the approval of any project affecting [indigenous] lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources’⁹⁷. This provision is particularly important, as it keeps strongly in consideration phenomena that happened and continue to happen across the globe⁹⁸. Article 25 can be considered as strengthening FPIC as well, by stating the strong connection between indigenous peoples and their Lands, Territories and Resources (LTRs), on which they have property rights⁹⁹. While it can be

⁹⁵ *Ibid.*

⁹⁶ Art. 28, United Nations Declaration on the Rights of Indigenous Peoples.

⁹⁷ Art. 32.2, *ibid.*

⁹⁸ Houska, T., The Standing Rock resistance and our fight for indigenous rights, TED, available at <https://www.youtube.com/watch?v=wD3-6JIUF7M> (last access: May 26, 2023)

⁹⁹ ÅHREN, M., The Provisions on Lands, Territories and Natural Resources in the UN Declaration on the Rights of Indigenous Peoples: An Introduction, in CHARTERS, C. and STAVENHAGEN, R., Making the

argued that FPIC might entail a right to veto, this work agrees with Anaya and Puig who, drawing upon Macklem's theory on the purpose of international human rights law¹⁰⁰, demonstrate 'how the consultation duty functions as a mitigating force against the exercise of state sovereignty'¹⁰¹. It is realistic to say that a right to veto would frustrate the idea of state sovereignty itself.

After briefly listing the most relevant provisions and rights contained in the Declaration, it appears necessary to address once again the right to self-determination, which is of particular significance for this work. This right has gone through a significant evolution in the international human rights framework over the decades. The right to self-determination is enshrined in various international instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right of indigenous peoples to self-determination as recognized by UNDRIP is a particular aspect of a broader right to which everyone is entitled.

Self-determination has been instrumental in the decolonization efforts of many countries. This right was initially conceived as a mean to achieve independence for colonial territories¹⁰², and this same principle was a fundamental aspect of the mandate system established by the League of Nations after World War I. Under this system, colonial territories were expected to progress toward self-rule and independence. The United Nations further reinforced it by including the right as a cornerstone of its Charter in 1945. In the context of secession, self-determination has often been invoked by groups seeking to gain independence from a larger state, to gain recognition as a different and obviously

Declaration Work – The United Nations Declaration on the Rights of Indigenous Peoples, IWGIA, 2009, p. 209.

¹⁰⁰ To 'mitigate the adverse effects of the structure and operation of the international legal order – a legal order that generally upholds the decision-making power of states within their respective ambits of recognized sovereignty'. MACKLEM, P., *The Sovereignty of Human Rights*, Oxford University Press, 2015, p. 15.

¹⁰¹ ANAYA, J. and PUIG, S., The duty to consult with Indigenous Peoples, in *University of Toronto Law Journal*, no. 67, 2017, p. 437.

¹⁰² QUANE H., The United Nations and the Evolving Right to Self-Determination, in *International and Comparative Law Quarterly*, No. 47, *ex alia* p. 546.

separated sovereign state. The issue of secession has been contentious since it raises questions about territorial integrity, international recognition, and the implications of fragmentation for regional stability.

Comparing these contexts to the right of indigenous peoples to self-determination highlights some similarities as well as, of course, differences. Indigenous peoples have long struggled for recognition of their right to self-determination, which is often tied to issues of land, resources, and cultural preservation. It is argued that the right of indigenous peoples to self-determination is distinguished from the broader concept of self-determination by its connection to issues of cultural identity and collective ownership¹⁰³. Indigenous peoples are not seeking to gain independence from a larger state but rather to assert their autonomy and right to control their own destinies within the framework of the states in which they reside (internal self-determination).

UNDRIP specifies that the right to self-determination that indigenous peoples shall enjoy is internal self-determination: ‘Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair totally or in part, the territorial integrity or any political unity of sovereign and independent States’¹⁰⁴.

After discussing these two milestones in indigenous rights and keeping in mind all the UNDRIP provisions highlighted in this chapter, one could wonder how it is possible that the Declaration was voted in favor by Cuba.

To better understand this apparent paradox, the next chapter will discuss Cuba’s historical and sociological background, in order to analyze the position that indigenous people have held in the country in different times.

¹⁰³ CAMBOU D., The UNDRIP and the legal significance of the right of indigenous peoples to self-determination: a human rights approach with a multidimensional perspective, in *The International Journal of Human Rights*, 2019, No. 23, p. 8.

¹⁰⁴ Art. 46 no.1, United Nations Declaration on the Rights of Indigenous Peoples.
E. N. This provision also indirectly confirms what Anaya and Puig stated about FPIC, see *supra*, note 76.

3. Cuba's historical and sociological background

After going through the main characteristics of the United Nations Declaration on the Rights of Indigenous People, the previous chapter ended with an indirect question on Cuba's favorable vote. Well, in the words of Catà Baker, 'for Cuba, support of such declaration is an easy affair – the Cuban nation constitutes its own indigenous people. The problem of the Indian or other native peoples are those of other states'¹⁰⁵. The present chapter's aim is to give the historical background and social context through which the people native to the island have lived, their interactions with the colonizers first, and with the 'new Cuban', after.

3.1. The early Indigenous population. The first contact with Europeans.

The island of Cuba didn't see its first human inhabitants until the migration of some small Central American indigenous groups migrated around 5000-4500 BCE. According to archeologists' classifications, two human groups at different levels of technological advancement migrated to Cuba, Casimiroid, and Ostionoid, but they are all referred to as Taino¹⁰⁶. It is difficult to accurately estimate Cuba's indigenous demography in pre-Columbian times since various chroniclers have reckoned incredibly high numbers. In the Thirties, however, scholars calculated that around 200.000 and 300.000 indigenous peoples lived in the Caribbean islands¹⁰⁷. According to Juan Pérez de la Riva, a prominent

¹⁰⁵ CATÀ BACKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, p. 234.

¹⁰⁶ MARTÍNEZ-FERNÁNDEZ, L., Key to the New World: A History of Early Colonial Cuba, University of Florida Press, 2018, pp. 23-24.

Also, in Keegan's words: 'Taino is not a specific way of life or a particular belief system; it is a social formation that incorporated distinct groups, allowing them to maintain their distinctiveness, while incorporating social groups in a regional political economy'. KEEGAN, W. F., The 'Classic' Taino, in KEEGAN, W. F., HOFMAN, C. L., RODRÍGUEZ RAMOS, R. (ed.), *The Oxford Handbook of Caribbean Archaeology*, Oxford University Press, 2013, p. 81.

¹⁰⁷ DENEVAN, W. M. (ed.), The Native Population of the Americas in 1492, *passim.*, University of Wisconsin Press, 1992.

Cuban historian, when Spanish ships arrived, the population was roughly 112.000. Most of these people lived between what today are called the Provinces of Granma and Matanzas. The remaining 10 percent lived west, in Pinar del Río¹⁰⁸. Even if the number of indigenous peoples on the island is imprecise, it surely dropped with the arrival of Europeans. The latter, mainly from southern Spain, arrived in the Caribbean in 1492 led by the Italian Christopher Columbus. In the first ten years after the Spanish arrival, the Columbus family was not benefitting from any permission from the Crown to exercise authority in the islands. On the other hand, the monarchs made frey Nicolás de Ovando exercise royal governor powers to impose order¹⁰⁹.

The conquest of Cuba was organized by Diego Velázquez on the recently conquered island of Hispaniola, in 1511, and carried out along with Ramón María Narváez y Campos¹¹⁰ and Bartolomé de las Casas. The latter will spend years in close contact with indigenous peoples as a Roman Catholic missionary only to become a passionate critic of the treatment of ‘Indians’ in his ‘History of the Indies’¹¹¹ and in his eloquently titled ‘A Brief Account of the Destruction of the Indies’¹¹². Here, in the paragraph ‘Of the Isle of Cuba’, de las Casas offers a first-hand testimony of the treatment of indigenous people at the time of the Spanish conquest:

¹⁰⁸ MARTÍNEZ-FERNÁNDEZ, L., *Key to the New World: A History of Early Colonial Cuba*, University of Florida Press, 2018, p. 34.

PÉREZ DE LA RIVA, J., *Desaparición de la población indígena cubana*, in *Rev. Universidad de la Habana*, no. 196, vol. 2, 1972, p. 62.

GUERRA Y SÁNCHEZ, R., PÉREZ CABRERA, J. M., REMOS, J. J., SANTOVENIA, E., *Historia de la nación cubana*, vol. 1, Editorial Historia de la Nación Cubana, 1952, p. 230.

¹⁰⁹ ALTMAN, I., *The Spanish Caribbean, 1492–1550*, *Oxford Research Encyclopedia of Latin American History*, 30 Jul. 2018, p. 4.

¹¹⁰ Spanish general and statesman that served several time as prime minister.

¹¹¹ ANAYA, J., *Indigenous Peoples in International Law*, Oxford University Press, 1996, p. 10.
CASAS, DE LAS, B., *History of the Indies: Selections* (Andree Collard ed. and trans., 1971).

¹¹² ‘Or a faithful narrative of the Horrid and Unexampled Massacres, Butcheries, and all manner of Cruelties, that Hell and Malice could invent, committed by the Popish Spanish Party on the inhabitants of West-India, TOGETHER With the Devastations of several Kingdoms in America by Fire and Sword, for the space of Forty and Two Years, from the time of its first Discovery by them’.

‘Once it so hapned, that the Citizens of a Famous City, distant Ten Miles from the place where we then resided, came to meet us with a splendid Retinue, to render their Visit more Honourable, bringing with them delicious Viands, and such kind of Dainties, with as great a quantity of Fish as they could possibly procure, and distributing them among us; but behold on a sudden, some wicked Devil possessing the minds of the Spaniards, agitated them with great fury, that I being present, and without the least Pretence or Occasion offered, they cut off in cold Blood above Three Thousand Men, Women and Children promiscuously, such Inhumanities and Barbarisms were committed in my sight, as no Age can parallel’¹¹³.

The Spanish historian defies, with these words, the conviction that the main cause of the decrease of the indigenous population in Cuba had been subjected to starving, illness, and epidemics¹¹⁴.

As briefly referred to in the first chapter¹¹⁵, in coherence with the theories defending the Spaniards’ conquests as *bellum iustum*, justifying a class division based on the fact that indigenous populations did not match European societal standards, in 1512 they introduced the *Requerimiento*¹¹⁶. According to this proclamation, ‘native Americans were “required” to recognize the legitimacy of the Christian Church and the sovereignty of the Spanish crown as protector of the Church. The failure to do so provided a pretext for Spaniards to wage war and reduce recalcitrant natives to slavery’¹¹⁷.

¹¹³ CASAS, DE LAS, B., A Brief Account of the Destruction of the Indies, 1552, p. 10.

Available at: http://www-personal.umich.edu/~twod/latam-s2010/read/las_casasb2032120321-8.pdf (last access: July 4, 2023)

¹¹⁴ ‘Whatever the numbers were at contact they dropped precipitously as Europeans poured into the islands. Although there is general agreement that the first epidemic hit large islands in 1518 – 1519, by then famine and illness had already taken a large toll’. ALTMAN, I., The Spanish Caribbean, 1492–1550, *Oxford Research Encyclopedia of Latin American History*, 30 Jul. 2018, p. 7.

¹¹⁵ See *supra*, p. 2.

¹¹⁶ An indigenous subject to *repartimiento*, would work ‘on demand’ for different colonists, according to necessity.

¹¹⁷ ALTMAN, I., The Spanish Caribbean, 1492–1550, *Oxford Research Encyclopedia of Latin American History*, 30 Jul. 2018, p. 2. The author also informs the reader that: ‘Spanish jurist Juan de Palacios Rubios wrote the Requirement, versions of which already existed, based on the 1493 papal *Inter caetera* bulls of donation’. (Note 2)

De las Casas, after maintaining that due to their living conditions, the Islanders sought refuge in the mountains, told that six thousand indigenous children were killed because their parents had died of overwork. He concludes the paragraph: ‘But afterward they consulted how to persecute those that lay hid in the Mountains, who were miserably massacred, and consequently this Isle made desolate, which I saw not long after, and certainly it is a dreadful and deplorable sight to behold it thus unpeopled and laid waste, like a Desert’¹¹⁸.

The diminishing population was replenished through the slave trade, both from the American mainland¹¹⁹ and the African continent¹²⁰.

Apart from the already mentioned repartimiento, the Spaniards had also established the encomienda system¹²¹,

‘[...] which required indigenous communities to provide labor for mining and commercial agriculture, and the large-scale capture and transportation of Native Americans from one locale to another wrought havoc among the indigenous peoples of the Caribbean and circum-Caribbean, resulting in high mortality and flight. Spaniards in the islands soon sought to supplement indigenous labor by importing African slaves who,

¹¹⁸ CASAS, DE LAS, B., A Brief Account of the Destruction of the Indies, 1552, p. 10.

¹¹⁹Robin Blackburn asserts that the first expeditions sent to the American mainland by the colonists of Cuba and Hispaniola “had slave trading as their primary objective”, and in the period 151-42 more than 200,000 Indians were captured and brought as slaves to Santo Domingo and Cuba’. YAREMKO, J. M., Colonial wars and indigenous geopolitics: aboriginal agency, the Cuba-Florida-Mexico nexus, and the other diaspora, in *Canadian Journal of Latin American and Caribbean Studies*, vol. 35, no. 70, 2010, p. 169.

¹²⁰ ‘The arrival of growing numbers of Africans contributed significantly to the region’s demographic transformation. [...] the African presence expanded rapidly, not only in the Greater Antilles but in the southern Caribbean as well. In the second half of the 16th century Cartagena would take its place alongside Santo Domingo and Havana as an important destination and entrepôt for the expanding transatlantic slave trade’. ALTMAN, I., The Spanish Caribbean, 1492–1550, *Oxford Research Encyclopedia of Latin American History*, 30 Jul. 2018, p. 7.

¹²¹ Anaya highlights how ‘De las Casas was particularly critical of the Spanish *encomienda* system’, specifying that ‘Although the Spanish viewed *encomienda* labor as a form of serfdom that did not give actual ownership of the laborers to the Spanish settlers, in practice it differed little from slavery’. Anaya, J., *Indigenous Peoples in International Law*, Oxford University Press, 1996, pp. 10, 26. This system, in fact, opposed to the *repartimiento* in its shared collective nature, granted an unspoken ownership of indigenous individuals to specific Spaniards.

in the early 16th century, became a significant if not always easily controlled presence in the region'¹²².

For centuries, Cuba has been not only home to mestizos,¹²³ but also to different indigenous peoples from North America (Calusa, Timucua, Creek, Seminole) and from Mexico (Yucatecan), as well as 'members of the Apache and Puebloan cultures of southwest'¹²⁴. Over the centuries, Cuba became culturally rich in diversity¹²⁵.

3. 2. The Cuban War of Independence in the framework of the Spanish-American War

The Cuban struggle for independence from Spain is not an event that can be enclosed in the so-called Guerra Necesaria (1895-1898), the final and successful act of a battle that could be said to have lasted thirty years¹²⁶. The concatenation of events that

¹²² ALTMAN, I., The Spanish Caribbean, 1492–1550, *Oxford Research Encyclopedia of Latin American History*, 30 Jul. 2018, p. 1.

¹²³ People of mixed Spanish European and Indigenous Cuban ethnicity.

¹²⁴ YAREMKO, J. M., Colonial wars and indigenous geopolitics: aboriginal agency, the Cuba-Florida-Mexico nexus, and the other diaspora, in *Canadian Journal of Latin American and Caribbean Studies*, vol. 35, no. 70, 2010, p. 167.

¹²⁵ *Ex aliis*, 'In time, many Taíno women married conquistadors, combining the genes of the New World and Old World to create a new mestizo population, which took on Creole characteristics with the arrival of African slaves in the 16th century.', Poole, R.M., What became of the Taíno?, *Smithsonian Magazine*, 2011, available at: www.smithsonianmag.com/travel/what-became-of-the-taino-73824867/ (last access June 29, 2023); 'Most succumbed to the violence and pestilence the conquest unleashed. Spanish society absorbed most of the survivors and their indigenous or *mestizo* children.', MARTÍNEZ-FERNÁNDEZ, L., *Key to the New World: A History of Early Colonial Cuba*, University of Florida Press, 2018, p. 34.

¹²⁶ Some clarifications are in order: 'These facts have convinced some scholars that the entire period from 1868 to 1898 should be seen as a "thirty years' war." This usage is justified because of the many threads of causation that run from the uprising at Yara in 1868 to the uprising at Baire in 1895, when Cubans began their final push for national liberation. On the other hand, the phrase is also misleading because it tends to relegate the events of 1895 – 98 to outcomes determined by the earlier war and to make initiatives for peace and reform during the years from 1878 to 1895 seem foredoomed to failure. The notion of a single, thirty-year struggle also causes us to underestimate how new circumstances and actors contributed to Cuban independence after 1895.' TONE, J. L., *War and genocide in Cuba, 1895-1898*, Chapel Hill: University of Carolina Press, 2006, pp. 25-26.

led to Spain's defeat in 1898 is surprising. For example, in 1865 Spain withdrew from the Dominican Republic, which showed Cubans the value of guerrilla tactics against Spain¹²⁷ as much as the Glorious Revolution has been the spark that brought Carlos Manuel de Céspedes, a lawyer and planter from eastern Cuba, to declare rebellion against Spain. This act led to the Ten Years War, the first attempt at Cuban independence. This cause remained regionally confined to eastern Cuba, but had some social consequences in the long run, such as some planters freeing their slaves and others gaining their freedom for their military service.¹²⁸ Slavery was finally declared illegal in Cuba in 1886, but it didn't stop de facto for years.

In the meantime, another Cuban was starting to stand out: the major General to be Antonio Maceo Grajales, leader of the Mambí Army¹²⁹, a mulato¹³⁰ born in Santiago de

¹²⁷ *Ibid.*, p. 22.

¹²⁸ *Ibid.*, pp. 23-24.

¹²⁹ 'The Mambi Army was the National Army of Liberation that defeated the Spanish through two wars: 1868 to 1878 and again, 1895 to 1898. Mambi is likely a Congo word. Recent estimates of the participation of Cubans of African descent in the Mambi Army run as high as 92%, but the more widely accepted figure in Cuba is 85%. This encounters resistance in Miami, where they prefer to think of the Mambi army as having a more important ibero spanish component.', available at: <https://www.afrocubaweb.com/photopages/mambifotos.htm> (last access: July 2, 2023)

Racial issues were very relevant at the time within the National Army of Liberation: 'In the army white insurgents perpetuated racial hierarchy through implicit racial assumptions undergirding two key pillars of manhood: patriarchal authority and military merit. First, white insurgents emphasized their own patriarchal honor on the basis of their chivalric protection of an idealized image of chaste, self-abnegating, patriotic Cuban womanhood. [...] Black men's claim to patriarchy were often unsuccessful due to the unspoken devaluation of black womanhood. Second, white insurgents redefined military merit in terms of racially tinged measures of honor, including respect for authority, orderliness, and sexual morality. They applied the emergent image of the bad soldier (*majá*) to name and punish presumed transgression against proper military conduct. Yet in practice, the very notion of what constituted a good soldier (*mambí*) had become racialized. *Mambises* were implicitly coded as white. By contrast, the label of *majá*, disproportionately applied to men of African descent, became a way to punish black soldiers' infractions against racial etiquette, without explicitly naming the grievance as racial. The implicit racial undertones of this gendered language were crucial in undermining black officers' claim to military merit [as is evident in the permanent stall in Maceo's military career, *infra*], especially their enjoyment of officer rank. Thus white insurgents deployed gendered language to reproduce white privilege within the very structures of military rank, which many optimistically assumed to be a crucial stepping stone to postwar political power'. LUCERO, B. A., *Revolutionary Masculinity and Racial Inequality: Gendering War and Politics in Cuba*, University of New Mexico Press, 2018, pp. 247-248.

¹³⁰ Of mixed European Spanish and Afro-Cuban descent.

Cuba from Marcos Maceo and Mariana Grajales Cuello¹³¹, ‘the mother of Cuba’, a paramount figure in the fight for Cuban independence since the Ten Years War. Antonio Maceo was controversial in his time, on one hand, an idol for non-white Cubans, and on the other a wannabe dictator in the eyes of white islanders¹³².

In 1878, Maceo led the Protest of Baraguà or the refusal of the Pact of Zanjón proposed by Spanish commander Arsenio Martínez Campos, to end hostilities. José Martí will define it as ‘the document before his eyes most beautiful in the history of Cuba’¹³³. After this bold act, he had to go on a forced exile: Maceo traveled to Kingston, New York, Port-au-Prince, St. Thomas, Virgin Islands, Turks Islands, Puerto Príncipe, and the Dominican Republic¹³⁴.

On February 24th, 1895, the Cuban War of Independence began¹³⁵. Maceo went back to the island in late March 1895, later joined by General Maximo Gomez and José Martí¹³⁶.

In the 1890s, Cuba was facing a harsh time due to a global economic recession that had made trade way too expensive for the island¹³⁷. The final act of thirty years was due to come to an end after 3 years of guerrilla war, the Americans intervened in 1898

¹³¹ OPATRŇY, J., BINKOVÁ, S., Quinientos años de La Habana (1519-2019). Colonialismo, nacionalismo e internacionalismo: Vol. 1a edicion, Charles University in Prague, Karolinum Press, 2020, p. 100.

¹³² FAGEN, P. W., Antonio Maceo: Heroes, History, and Historiography, *Latin American Research Review*, no. 11, vol. 69, 1976, pp. 70-71.

¹³³ Antonio Maceo and the Baraguá Protest, 2021, available at: <https://cubarte.cult.cu/en/about-cuban-literature/antonio-maceo-and-baragua-protest/> (last access: July 2, 2023)

¹³⁴ OPATRŇY, J., BINKOVÁ, S., Quinientos años de La Habana (1519-2019). Colonialismo, nacionalismo e internacionalismo: Vol. 1a edicion, Charles University in Prague, Karolinum Press, 2020, p. 101.

¹³⁵ TONE, J. L., War and genocide in Cuba, 1895-1898, Chapel Hill: University of Carolina Press, 2006, p. 27.

¹³⁶ BECK, H. H., Cuba's Fight for Freedom and the War with Spain: a comprehensive, accurate and thrilling history of the Spanish kingdom and its latest and fairest colony; the long struggle of Cuba for freedom and independence; the intervention of the United States and the fierce war with Spain that followed, Globe Bible Publishing Co., 1898, pp. 220-221.

¹³⁷ TONE, J. L., War and genocide in Cuba, 1895-1898, Chapel Hill: University of Carolina Press, 2006, p. 28.

when an explosion blew up the U.S.S. Maine, at the time in Havana Harbor¹³⁸. Maceo had been shot and killed two years prior, near Havana¹³⁹.

When the U.S. intervened and won the Spanish-American War¹⁴⁰, this choice was ‘based on a construction of U.S. national identity that held the United States to be a just, humane civilization that was duty-bound to aid an oppressed people and to punish their wicked persecutors’¹⁴¹.

3. 3. José Martí and his view on indigeneity

José Martí was born from Spanish parents in Havana on January 28, 1853, and witnessed the conditions of Spanish slavery when he moved to Matanzas due to his father being appointed itinerant judge there. He was arrested at 16 years old in 1869 for writing a document advocating for Cuban independence. After enduring imprisonment for a while, he was sent to exile on the Isle of Pines and then to Spain in 1871, where he studied Law¹⁴². When his exile ended, he traveled to Mexico and Guatemala, to be back in Cuba after the signing of the Pact of Zanjón¹⁴³, but was exiled again five years later¹⁴⁴. Escaping briefly after, he finally went to New York to meet with Maximo Gomez and Antonio Maceo. The relationship between the two pragmatic generals and Martí was not smooth

¹³⁸ CUSICK, J., The War for Cuban Independence, 1895-1898: Spain, Cuba, and the United States – Historical Overview, p.1, available at: https://ufdcimages.uflib.ufl.edu/UF/00/02/86/53/00001/UF00028653_00001.pdf (last access: July 3, 2023)

¹³⁹ *Ibid.*, p. 3.

¹⁴⁰ Concluded with the Treaty of Paris, signed December 10, 1898.

¹⁴¹ MCCARTNEY, P. T., Religion, The Spanish-American War, And The Idea Of American Mission, *Journal Of Church & State*, no. 54, vol. 2, 2012, p. 269, Religion and Philosophy Collection.

¹⁴² TONE, J. L., War and genocide in Cuba, 1895-1898, Chapel Hill: University of Carolina Press, 2006, p. 31.

¹⁴³ See *supra*, para. 3. 2.

¹⁴⁴ TONE, J. L., War and genocide in Cuba, 1895-1898, Chapel Hill: University of Carolina Press, 2006, p. 33.

at all, and Maceo's and Gomez's view of the author as 'a better poet'¹⁴⁵ than revolutionary'¹⁴⁶ or as a 'Machiavellian' character¹⁴⁷ 'proselytized' Cuban veterans from the Ten Years War. Martí left the Cuban Independence Movement in 1884. After reconciliation with the leaders of the movement, he went back to Cuba three times, before dying in the war of independence.

In 1891, he wrote 'Cuba is a very big grave that harbors a corpse that is way bigger: the dead indigenous race. // That race animates me and Bolívar's maxim comforts me: "We will win!"'¹⁴⁸.

Martí, after experiencing life in eastern Cuba during his childhood, wrote quite extensively about 'Indians'. One of his most famous works is 'Nuestra América' he worries and tries to warn about the U.S. and to inspire cultural pride in being American¹⁴⁹:

'These born in America, that feel ashamed, because they wear the indigenous apron from the mother that raised them (e. n. he was likely referring to physical features), and forswear, rascals! from their ill mother, and leave her alone in the bed of sickness! Then, who is a man? That who stays with the mother, to cure her illness, or the one who puts her to work where she's not seen, and lives off her effort in the corrupted lands with the worm around his neck, cursing the bosom that carried him, carrying the sign of the traitor on the back of his paper jacket? These children of our America, that needs to be saved with its Indians, and goes from less to more; these deserters that ask for a rifle in

¹⁴⁵ According to Gomez.

¹⁴⁶ TONE, J. L., War and genocide in Cuba, 1895-1898, Chapel Hill: University of Carolina Press, 2006, p. 34.

¹⁴⁷ *Ibid.*, according to Maceo.

¹⁴⁸ 'Cuba es una tumba muy grande que guarda un cadáver más grande que ella: la raza india muerta. // Esa raza me alienta, y la máxima de Bolívar me conforta: "¡Venceremos!"'. MARTÍ, J., *Amistad funesta*, volumen X de las obras completas de José Martí, QUESADA, DE, G., (ed.), Berlin, 1911.

¹⁴⁹ SCHWARZMANN, G. M., Latin America as a Bio-region: An Ecocritical Approach to José Martí's "Nuestra America", *Ciberletras – Revista de crítica literaria y de cultura*, no. 40, 2018, p. 64.

the Northern American armies, that drowns its Indians in blood, and goes from more to less!’¹⁵⁰

With the contraposition between ‘from less to more’ and ‘from more to less’, Martí could be interpreted as implying that the richness of Cuba can shine and thrive in direct proportion with the survival of ‘its Indians’. The literary trope of the ‘noble savage’, closer to the state of nature than the Spaniard, was putting the ‘savage’ on a higher ground than the Western civilization, rotten by corruption. The key element to the author’s thought is that nationalism or national identity has nothing to do with ethnic purity. ‘Indeed, the very concept of purity seemed like a “sin against humanity”¹⁵¹ to Martí. Instead, turning the argument of the racial theorists around, he contended that racial mixing, or *mestizaje*, had created a new “anti-ethnic” people in Cuba who were naturally more modern’¹⁵².

The element of indigeneity becomes collective, transcending ethnicity and race¹⁵³, building the new Cuban: the *mestizo*.

Martí constructs the Cuban national identity, overlapping it with *indigenismo*:

‘The power of the extinct Indian, of Hatuey and the Taíno, reduced to a symbolic and past-tense Indianism, serves as the basis for a new *indigenismo*, to be built on an assimilation of the racial and ethnic components, into a new and blended indigenous state.

¹⁵⁰ ‘¡Estos nacidos en América, que se avergüenzan, porque llevan delantal indio, de la madre que los crió, y reniegan, ¡bribones!, de la madre enferma, y la dejan sola en el lecho de las enfermedades! Pues, ¿quién es el hombre? ¿El que se queda con la madre, a curarle la enfermedad, o el que la pone a trabajar donde no la vean, y vive de su sustento en las tierras podridas con el gusano de corbata, maldiciendo del seno que lo cargó, paseando el letrero de traidor en la espalda de la casaca de papel? ¡Estos hijos de nuestra América, que ha de salvarse con sus indios, y va de menos a más; estos desertores que piden fusil en los ejércitos de la América del Norte, que ahoga en sangre a sus indios, y va de más a menos!’, MARTÍ, J., *Nuestra América*, *La Revista Ilustrada de Nueva York*, U.S., January 10, 1891. Available at: <https://bibliotecavirtual.clacso.org.ar/ar/libros/osal/osal27/14Marti.pdf> (p. 134, last access: July 4, 2023).

¹⁵¹ LISS, S. B., *Roots of Revolution: Radical Thought in Cuba*, University of Nebraska Press, 1987, p. 49.

¹⁵² TONE, J. L., *War and genocide in Cuba, 1895-1898*, Chapel Hill: University of Carolina Press, 2006, p. 38.

¹⁵³ The Cuban population was already mixed with African, Carribean, Chinese, Mexican and North American ethnicities.

Caribbean indigenismo of the nineteenth century required mestizaje and mulatería. To succeed, the pure Indian, like the pure blanco, must disappear within the blended ethnos that constitutes each new (and distinct) nation. For Martí and the new Cuban state, indigenismo is built without the Indian'¹⁵⁴.

Martí was not the first to give a mythological allure to the indigenous. Bartolomé de Las Casas, in his 'A Brief Account of the Destruction of the Indies' presents the cacic Hatuey as a prophet, an attempted savior of those who became his people – the Cubans – shortly after fleeing Hispaniola¹⁵⁵.

'[...] But do you not know the cause and reason of their coming? We are altogether ignorant of it, they replied, but sufficiently satisfied that they are cruelly and wickedly inclined: Then thus, he said, they adore a certain Covetous Deity, whose cravings are not to be satisfied by a few moderate offerings, but they may answer his Adoration and Worship, demand many unreasonable things of us, and use their utmost endeavors to subjugate and afterwards murder us. [...] Then the Noble Hathney re-assuming his discourse, said, if we Worship this Deity, till ye be ravished from us, we shall be destroyed, therefore I judge it convenient, upon mature deliberation, that we cast it into the River, which advice was approved of by all without opposition, and the Cabinet thrown in to the next River'¹⁵⁶.

Martí, maybe unwillingly, reprises the symbolical value that de las Casas attributes to Hatuey, extending it to the indigenous and filling it with independentist ideas. This line of thought will continue in the next century¹⁵⁷.

¹⁵⁴ CATÀ BAKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, p. 205.

¹⁵⁵ Haiti.

¹⁵⁶ CASAS, DE LAS, B., A Brief Account of the Destruction of the Indies, 1552, p. 9. Available at: http://www-personal.umich.edu/~twod/latam-s2010/read/las_casasb2032120321-8.pdf (last access: July 4, 2023)

¹⁵⁷ See *infra* para. 3. 5.

3. 4. Cuban governments throughout the first half of the 20th century

Following the Spanish-American War, Cuba underwent a shift from Spanish to American control on January 1, 1899, being governed de facto by the U.S. military administration until May 20, 1902.

From November 5, 1900, to February 21, 1901, a convention took place in Havana, resulting in the adoption of a constitution containing some provisions known as the Platt Amendment¹⁵⁸. These provisions were posed as essential clauses for the United States to accept the Cuban constitution. According to the Platt Amendment, the Cuban State swore not to incur in expenses its revenues at the time could not bear, to guarantee the continuation of the sanitary administration undertaken by the American military government, to lease naval stations to the United States and, if need be, to not resist U.S. intervention to preserve Cuban independence and a government deemed adequate to protect life and property¹⁵⁹.

The first president of this new republic was Tomás Estrada Palma, under which Cuba knew a great material prosperity, at least for some part of its population. The main income in Cuban economy was represented by sugar exports, with the U.S. being its chief trading partner throughout the first half of the 20th century.

Estrada Palma's party — the Conservatives — won the elections in December 1905 but the Liberals accused them of rigging the vote, committing pension fraud, and failing to bring about proposed governmental reforms. These accusations triggered a revolution in July 1906, leading to Estrada Palma asking for the United States' intervention to mediate. When the mediation failed, U.S. President Theodore Roosevelt named William Howard

¹⁵⁸ Britannica, T. Editors of Encyclopaedia, *Cuban Revolution*, *Encyclopedia Britannica*.

¹⁵⁹ F. J. Macías Martín, *La enmienda Platt y la diplomacia española: crónica de una imposición neocolonialista a Cuba*.

Taft, his secretary of war, governor of Cuba. This administration lasted up until January 28, 1909.

From 1909 to 1925, Cuba saw three presidents: José Miguel Gómez, Mario García Menocal and Alfredo Zayas y Alfonso. During this time, the U.S. interfered twice and threatened to do so several more times. In these years, corruption and favoritisms towards white Cubans were the overwhelmingly common factor.

In 1920, a huge financial crisis struck the island, leading to many banks and businesses declaring bankruptcy. Zayas obtained a \$50 million loan from the States in January 1923, which contributed to the already growing corruption allegations against him. When he tried to get re-nominated even his own party opposed him, for which reason he made a pact with the Liberal candidate Gen. Gerardo Machado y Morales who was to become Cuba's first full-fledged dictator.

After Machado's downfall, a sergeant gained control of the army: Fulgencio Batista y Zaldívar. In September 1933 he organized the 'sergeants' revolt'; it toppled the provisional regime of Carlos Manuel de Céspedes, which had replaced the dictatorial regime of Machado. In the process Batista became the most powerful man in Cuba and the country's de facto leader. He made and unmade every successor in the presidency. After two attempts with other candidates had failed, leading to early overthrows, Batista made Col. Carlos Mendieta president. In the meantime, in 1934 a treaty abrogated the Platt Amendment. The unrests were still ongoing.

In 1940, Batista, then a colonel, undertook his own candidacy and defeated Grau San Martín. During his presidential term, 1940–44, Cuba entered World War II on the side of the Allies and established diplomatic relations with the Soviet Union. Batista's candidate, Carlos Saladrigas y Zayas, ran in 1944 but was defeated by Grau San Martín, and Batista soon left the country¹⁶⁰.

¹⁶⁰ See *supra*, note 83.

Batista ran for the presidency in the June 1952 election but, fearing his defeat, he overthrew the government in March, calling for elections in 1954. In the meantime, he held ‘temporarily’ presidential powers. He was thus elected for a four-year term, without any opposition, with his term starting February 24, 1955. A para-military anti-Batista organization, amongst others, organized a campaign denying the validity of this election; it was the 26th of July Movement, named after the ‘Ataque al Cuartel Moncada’ in Santiago on 26th July 1953, led by Fidel Castro.

3. 5. The rise of Fidel Castro¹⁶¹ and the Revolution¹⁶²

Castro was a law student at the University of Havana, where he started developing an interest in politics. In 1947, with a group of Dominican exiles and Cubans, he tried to invade the Dominican Republic to overthrow Gen. Rafael Trujillo.

After graduating and starting to practice law, Fidel became a member of the so-called Ortodoxos, the Cuban People's Party, and subsequently their candidate for the 1952 election. After Batista preempted them with his coup, Castro led the above-mentioned attack on 26 July 1953 in which most of the participants were killed, while Castro and his brother were imprisoned. On October 16, 1953, Castro will deliver his famous defense speech in front of the tribunal, symbolized by its most famous sentence: ‘La historia me absolverá’.

Two years later, after receiving amnesty, the Castro brothers were released and headed to Mexico, where the plan to invade the island with other Cuban exiles started to take shape.

On December 2, 1956, on board the yacht Granma, Castro and other 81 men disembarked on the eastern coast. Only a dozen men were not killed nor held captive, among which were the Castro brothers and Ernesto Che Guevara.

¹⁶¹ RAMONET, I., CASTRO, F., *My life: A Spoken Autobiography*, Simon and Schuster, 2009.

¹⁶² GUERRA, S., MALDONADO GALLARDO, A., *Historia de la Revolución Cubana*, Txalaparta, 2009.

On March 13, 1957, the Directorio Revolucionario (Revolutionary Directorate), a rebel group mainly composed of students, attacked the presidential palace in Havana. Most of them were killed. The disturbances continued intermittently throughout central Cuba, with the initial support of trade unionists, withdrawn after the government stated that anyone participating in the general strike that was being planned would have been refused re-employment throughout the whole island.

On August 1, 1957, Batista suspended constitutional rights such as freedom of assembly and freedom of expression.

During the following year, the revolution continued to grow so strong that the United States isolated the Cuban government with an arms embargo and the scheduled elections had to be postponed from March to November. The political scene was composed of three main candidates: Andres Rivera Agüero - chosen by Batista as his successor –, Carlos Márquez Sterling, and the former president Ramón Grau San Martín - candidate of the Cuban Revolutionary Party. Despite the fact that the moderate Márquez Sterling was the winner in four provinces, Agüero was formally awarded victory thanks to Batista's interference, once again.

After the elections, the support for Batista started to fade away until he fled the country on January 1, 1959, after Che Guevara had successfully captured a train filled with ammunition and arms for the government forces. After some months in the Dominican Republic, Batista flew to Madeira and then to Portugal where he lived the rest of his life in exile.

After the Revolution won, Fidel's narrative was hinting at a further mythologization of the indigenous, detaching indigeneity from the indigenous itself. The indigenous, in the form of Hatuey, 'is grounded on an Indianism in the past tense, and ultimately, in an indigenismo with no Indians'¹⁶³. The Indian has contributed to create a whole new ethnicity in the greatest island of the Antilles, which is embodied in the mestizo or mulato

¹⁶³ CATÀ BAKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, pp. 207.

and others, but also in any white person: ‘by the late twentieth century, all Cubans are Indians, and Hatuey came to warn them of the destructive power of invasion by an imperial power. But now that imperial power is the United States, and the greatest cacique martyr is a white man from Argentina’¹⁶⁴. El Che becomes another personification of Hatuey, and the Cuban Revolutionary Army is an embodiment of the past struggles, that returned to the present: the conquest and the War of Independence both started in the eastern end of the island, where the conquerors first arrived and where the Creole civilization flourished. In 1985, for the thirty-second anniversary of the start of the Cuban Revolution, he said: ‘July 26 marks the Día de la Rebelión in Cuba, commemorating the failed attack on an outpost barracks by Fidel Castro and his band of rebels against soldiers of the Batista regime. That failed attack marks now the beginning of the Cuban Revolution whose victors continue to administer the Cuban state’¹⁶⁵. He then continued:

‘In this region, our people began their struggle, in the first place, against the conquistadors. As I recently related at a Labor Conference, the most peaceful people on earth were those who inhabited this island at the time that the conquistadors arrived, the aborigines, totally unarmed, totally unwarlike, who notwithstanding were able to offer a certain resistance and a name that figures in our history as the first warrior for our country—that of el indio Hatuey. According to history, he came here from the island of Santo Domingo—I believe that was the name for the place then—where the conquistadores had first established themselves—and he became our first warrior, our first leader, and the first martyr of our fatherland’¹⁶⁶.

¹⁶⁴ *Ibid.*, p. 206.

¹⁶⁵ CASTRO RUZ, F., Discurso Pronunciado Por El Comandante En Jefe Fidel Castro Ruz, Primer Secretario Del Comité Central Del Partido Comunista De Cuba Y Presidente De Los Consejos De Estado Y De Ministros, En El Acto Central Por El Trigesimo Segundo Aniversario Del Asalto Al Cuartel Moncada, Celebrado En La Provincia De Guantanamo, El 26 De Julio De 1985, "Año Del Tercer Congreso," available at: <http://www.cuba.cu/gobierno/discursos/1985/esp/f260785e.html> (last access July 5, 2023)

CATÀ BAKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, pp. 227.

¹⁶⁶ CASTRO RUZ, F., *ibid.*

The Cuban indigenous becomes directly opposed to the conqueror and oppressor, once Spain, then the United States.

In Spanish 'En esta región, nuestro pueblo empezó a luchar, en primer lugar, contra los conquistadores. Como dije recientemente en la Conferencia Sindical, el más pacífico pueblo del mundo era el que habitaba en esta isla cuando llegaron los conquistadores; los aborígenes, totalmente desarmados, totalmente pacíficos, no obstante, ofrecieron cierta resistencia y un nombre figura en nuestra historia como el primer luchador por nuestro país, el del indio Hatuey. Según la historia, procedía de la isla de Santo Domingo —creo que así la llamaban entonces—, donde se habían asentado primero los conquistadores, y fue el primer luchador, el primer jefe y el primer mártir de nuestra patria'. Translation by CATÀ BAKER, L., *ibid.*, p. 228.

4. The relationship between Cuba and the Organization of American States. The American Declaration on the Rights of Indigenous Peoples.

Between what some scholars regard as the first step¹⁶⁷ toward an inter-American system and the first International Conference of American States¹⁶⁸ there is a ‘gap’ of 63 years. In theory, there have been several meetings after the 1826 Congress of Panama, finalized to protect the newly independent American States¹⁶⁹. In practice, when the United States had become more interested in Latin America and thus decided on hosting the Washington Conference is when the ‘interruptions’ in the process stopped. The Conference was held ‘for the purpose of discussing and recommending for adoption to their respective Governments some plan of arbitration for the settlement of disagreements and disputes that may hereafter arise between them, and for considering questions relating to the improvement of business intercourse and means of direct communication between said countries, and to encourage such reciprocal commercial relations as will be beneficial to all and secure more extensive markets for the products of each of said countries’¹⁷⁰.

The Washington Conference marked the birth of the ‘International Union of American Republics for the prompt collection and distribution of commercial information’, which was composed of eighteen states and had headquarters in Washington. The Union later became the ‘Pan American Union’ until finally, as we know it today, the Organization of American States¹⁷¹.

¹⁶⁷ In 1826, Simón Bolívar, leader of the Spanish-American movement, convened the Congress of Panama.

¹⁶⁸ Held from October 1889 to April 1890 in Washington D.C.

¹⁶⁹ Lima in 1847 and Santiago in 1856 and 1864.

HERZ, M., *The Organization of American States (OAS) global governance away from the media*, Routledge, 2011, pp. 7-8.

¹⁷⁰ Organization of American States, *About the OAS – Our History*, available at: https://www.oas.org/en/about/our_history.asp (last access: July 6, 2023)

¹⁷¹ *Ibid.*

Cuba had joined when the OAS was born, in Bogotá on May 5, 1948, at the beginning of the Cold War. When it came to the intervention in the Caribbean and in Central America, the U.S. had adopted ‘an ideational marriage between the Monroe Doctrine¹⁷² and the Soviet bloc’¹⁷³, which interpreted ‘intervention’ as ‘the infiltration of alien, hostile ideas’¹⁷⁴. This allowed the U.S. to intervene in the aforementioned regions, even under the principle of non-intervention¹⁷⁵. Furthermore, it reinforced the statement that the U.S. aimed at proving: the Cuban government ‘represented an extra-continental threat to the hemisphere’¹⁷⁶.

After Castro and the Revolutionary Army had won, Cuba’s presence in OAS was shaking. In 1961 at the birth of ‘The Charter of Punta del Este, Establishing an Alliance for Progress Within the Framework of Operation Pan America’¹⁷⁷, the head of the Cuban delegation, affirmed that ‘the United States comes with the sack of gold...in one hand, and the barrier to isolate Cuba in the other’¹⁷⁸.

One year later, Kennedy encouraged the other American states to quarantine Cuba, and to support the act of isolation already carried out by the U.S. At the Eight Meeting of Consultation of Ministers of Foreign Affairs, Cuba was suspended from the Organization since ‘the present Government of Cuba has identified itself with the principles of Marxist-

¹⁷² ‘The Monroe Doctrine was articulated in President James Monroe's seventh annual message to Congress on December 2, 1823. The European powers, according to Monroe, were obligated to respect the Western Hemisphere as the United States' sphere of interest’.

U. S. National Archives, Milestone Documents – Monroe Doctrine (1823), available at: <https://www.archives.gov/milestone-documents/monroe-doctrine> (last access: July 6, 2023)

¹⁷³ HERZ, M., *The Organization of American States (OAS) global governance away from the media*, Routledge, 2011, p. 12.

¹⁷⁴ *Ibid.*

17. ¹⁷⁵ *Ibid.*, citing: RICE, C., “The Military as an Instrument of Influence and Control,” in *Dominant Powers and Subordinate States: The United States in Latin America and the Soviet Union in Eastern Europe*, ed. Jan Triska (Durham, N.C.: Duke University Press, 1986): 239–60.

¹⁷⁶ HERZ, M., *The Organization of American States (OAS) global governance away from the media*, Routledge, 2011, p. 13.

¹⁷⁷ August 17, 1961.

¹⁷⁸ Krepp, S., *Cuba and the OAS: A Story of Dramatic Fallout and Reconciliation*, 2017, available at: <https://www.wilsoncenter.org/blog-post/cuba-and-the-oas-story-dramatic-fallout-and-reconciliation> (last access: July 6, 2023)

Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental communist powers, including even the threat of military intervention in America on part of the Soviet Union'¹⁷⁹.

In 1969, in San José, the American Convention on Human Rights¹⁸⁰ was adopted. The Convention would expand the authority of the Inter-American Commission on Human Rights and establish the Inter-American Court of Human Rights (IA Court)¹⁸¹.

This, like the Inter-American Democratic Charter¹⁸² has never been signed by Cuba. The Charter of the OAS¹⁸³, on the other hand, was.

After being allowed to resume diplomatic relationships with other American states since 1976, Cuba's state of suspension from the OAS was revoked in 2009¹⁸⁴, even after Washington asked not to lift it¹⁸⁵.

¹⁷⁹ Eight Meeting of Consultation of Ministers of Foreign Affairs, Final Act, Punta del Este, January 22-31, 1962, p. 13, available at: <http://www.oas.org/council/MEETINGS%20OF%20CONSULTATION/Actas/Acta%208.pdf#page=14> (last access: July 6, 2023)

¹⁸⁰ OAS, Pact of San José: American Convention on Human Rights, San José, 22 November 1969, available at: https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf (last access: July 7, 2023)

¹⁸¹ HERZ, M., *The Organization of American States (OAS) global governance away from the media*, Routledge, 2011, p. 15.

¹⁸² Adopted at a special session of the General Assembly on September 11, 2011, in Lima, Peru. Inter-American Democratic Charter, available at: <https://www.oas.org/en/democratic-charter/> (last access: July 7, 2023)

¹⁸³ Approved in Bogotá on May 5, 1948. Amended by the Protocol of Buenos Aires (1967), the Protocol of Cartagena das Indias (1985), the Protocol of Managua (1993), and the Protocol of Washington (1992).

¹⁸⁴ OAS Revokes Resolution Suspending the Membership of Cuba in the Inter-American system, June 3, 2009, available at: https://www.oas.org/en/media_center/press_release.asp?sCodigo=GA-12-09 (last access: July 7, 2023)

¹⁸⁵ OAS: Maintain Suspension of Cuba, Restoring Full Membership Would Undermine Regional Standards, June 1, 2009, available at: <https://www.hrw.org/news/2009/06/01/oas-maintain-suspension-cuba>

On June 15, 2016, after several years of collaboration with indigenous peoples¹⁸⁶, the American Declaration on the Rights of Indigenous Peoples was adopted.

The OAS had the intention of adopting the same parameters, if not more stringent, as those of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)¹⁸⁷, which is why according to Article XXXIX: ‘The rights contained in this Declaration and the United Nations Declaration on the Rights of Indigenous Peoples constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas’¹⁸⁸.

Article 1 of the Declaration states that:

1. The American Declaration on the Rights of Indigenous Peoples applies to the indigenous peoples of the Americas.
2. Self-identification as indigenous peoples will be a fundamental criterion for determining to whom this Declaration applies. States shall respect the right to such self-identification as indigenous, whether individually or collectively, in keeping with the practices and institutions of each indigenous people¹⁸⁹.

Like in the first Article of ILO 169¹⁹⁰, self-identification is regarded as a fundamental criterion in establishing who the Declaration applies to. In the same way, Article IV reprises UNDRIP’s Article 46.1, concerning internal self-determination¹⁹¹ by stating that:

¹⁸⁶ In 2001, there were controversies about the adoption of the terms ‘peoples’/’populations’ in a draft for the American Declaration on the Rights of Indigenous Peoples.

NIEZEN, R., *The Origins of Indigenism: Human Rights and the Politics of Identity*, University of California Press, 2003, pp. 239-240.

¹⁸⁷ See *supra*, chapter 2.

¹⁸⁸ Native American Rights Fund, OAS Declaration on the Rights of Indigenous Peoples, available at: <https://narf.org/cases/oas-indigenous-rights/> (last access July 7, 2023)

¹⁸⁹ American Declaration on the Rights of Indigenous Peoples, available at: <https://www.oas.org/en/sare/documents/DecAmIND.pdf> (last access: July 11, 2023)

¹⁹⁰ See *supra*, p. 8.

¹⁹¹ See *supra*, p. 12.

‘Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the Organization of American States or the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity or sovereign and independent states’¹⁹².

The OAS Declaration recognizes the juridical personality of indigenous peoples¹⁹³, refuses assimilation policies¹⁹⁴, and establishes the obligation for States to ‘adopt the preventive and corrective measures necessary for the full and effective protection of [the] right [not to be object of racism, racial discrimination, xenophobia or related intolerance]’¹⁹⁵, as well as the right to collective organization¹⁹⁶.

Finally, the Declaration also establishes special protection for people who live in voluntary isolation or in a state of initial contact¹⁹⁷.

The American Declaration also affirms the right of indigenous peoples to their own culture and traditions¹⁹⁸. It is in many ways similar to UNDRIP, as it was expected¹⁹⁹.

¹⁹² American Declaration on the Rights of Indigenous Peoples, available at: <https://www.oas.org/en/sare/documents/DecAmIND.pdf> (last access: July 7, 2023)

¹⁹³ *Ibid.*, Art. IX.

¹⁹⁴ *Ibid.*, Art. X.

¹⁹⁵ *Ibid.*, Art. XII.

¹⁹⁶ *Ibid.*, Section Two – Human rights and collective rights (art. V-XII).

¹⁹⁷ *Ibid.*, Art. XXVI.

¹⁹⁸ *Ibid.*, Article XIV.

¹⁹⁹ See *supra*.

Cuba has not actively rejoined the Organization after the lift of the suspension in 2009, and hasn't signed the American Declaration on the Rights of Indigenous Peoples.

One wonders how the Declaration would apply to Cuba, since 'every Cuban is indigenous'. It is unrealistic to think that it would apply to the descendants of the Taíno, those who still live in Bohíos and still practice a religion that comes from an indigenous religion and the worship of the Caridad as the patroness of Cuba²⁰⁰. They are considered indigenous only as part of all of the rest of the Cuban population.

²⁰⁰ HARTMANN, A., Aquí Estamos, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., Cuba Indígena Hoy: Sus Rostros y ADN, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 23.

5. Conclusions on the open question of Cuban indigeneity

The history of Indigenous peoples in the Caribbean has been a complicated one. Conquered, converted, enslaved, exterminated. But have Taínos really disappeared?

In 2018, per request of Alejandro Hartmann²⁰¹, the project Cuba Indígena started: ‘Hartmann wanted to reveal those faces and their form of life as unquestionable evidence of a still alive offspring and, through our portraits, prove to the world that this peoples’ extinction was little more than a myth’²⁰². Some scholars argued that Taínos had disappeared within 60 years from first contact²⁰³.

“Extinction” as a historical dictum takes ownership of the notion of “indigenous”, and imposes the incapacity for civilization due to lack of mental rigor, and for survival, due to physical weakness, supposedly unable to withstand the forced labor of the encomienda and its variant of slavery. However, on closer inspection, the current and the detail reveal something else: the survival of large families with Indo-Cuban roots is obvious and quite logical. The concept of extinction demands total destruction, but this is not provable. The epistemological seed in the idea of a fatal extinction of the American Indian drags a continuous historical reflection. It is not, and has never been, what is seen in the mountains and, by native blood, in many Cubans.’²⁰⁴

²⁰¹ Historian of the Ciudad de Baracoa and researcher of all eastern Cuba.

²⁰² ‘Hartmann quería revelar aquellos rostros y sus formas de vida como evidencia indiscutible de una descendencia aún viva y, a través de nuestros retratos, demostrar al mundo que la extinción de estos pueblos era poco más que un mito.’, GARRIDO, H., Cuba Indígena: Génesis de un Proyecto Necesario, in MARCHECO, B. HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., Cuba Indígena Hoy: Sus Rostros y ADN, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 9.

²⁰³ CURET, L. A., The Chief Is Dead, Long Live... Who? Descent and Succession in the Protohistoric Chiefdoms of the Greater Antilles, in *American Society for Ethnohistory*, vol. 49, no. 2, 2002, p. 259.

²⁰⁴ BARREIRO, J., Persistencia en la Raíz, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., Cuba Indígena Hoy: Sus Rostros y ADN, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 15.

In this research, it is reported that an archeologist at the University of Pennsylvania, dr. Culin, had been hired by the mining company Pennsylvania Steel to investigate a report in which its geologists maintained to have found a tribe of ‘Indian savages’. He didn’t pay much attention to it, but while in El Caney he met José Almenares Argüello²⁰⁵, who told him that in his youth years ‘[...] there were several free Indians in El Caney, who dressed like their neighbors and spoke Spanish. They fabricated soap with ash and ox fat, made and smoked pipes of burnt clay and bamboo reeds, hunted wild pigs and hutias, drank from güiras and ate with spoons made of cedarwood’²⁰⁶.

The research proceeds to cite the works of Antonio Núñez Jiménez²⁰⁷ and prof. Dr. Manuel Rivero de la Calle. The latter studied indocubans anthropometrically in different areas, and gives testimony of the Rojas-Ramírez bloodline, ‘[...] one of the biggest Cuban families, I think the biggest, without going too deep’²⁰⁸. There is live testimony of trans-familiar nuclei of Indo-Cuban descent, even though the term ‘indian’ had disappeared from the Spanish census since 1774²⁰⁹.

²⁰⁵ This man of 105 years old from El Caney whad been called ‘the last Taíno cacic’ by scientists Carlos de la Toore and Luis Montané, who then tried to study him by bringing him to the capital, where José died.

²⁰⁶ ‘[...] habían muchos indios libres en El Caney, que vestían igual que los vecinos y hablaban español. Fabricaban jabón con cenizas y grasa de buey, confeccionaban y fumaban pipas de arcilla Quemada y junco de bambú, cazaban cerdos cimarrones y jutías, bebían en güiras y comían con cucharas hechas de cedro’.

BARREIRO, J., *Persistencia en la Raíz*, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., *Cuba Indígena Hoy: Sus Rostros y ADN*, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 17.

²⁰⁷ Thanks to whom, in 1964, a major study with object the indocuban populations in the mountains took place.

²⁰⁸ CALLE, DE LA, M. R., Carta a Pedro Soto, Universidad de la Habana, November 10, 1973.

BARREIRO, J., *Persistencia en la Raíz*, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., *Cuba Indígena Hoy: Sus Rostros y ADN*, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 18.

²⁰⁹ HARTMANN, A., *Aquí Estamos*, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., *Cuba Indígena Hoy: Sus Rostros y ADN*, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 22.

According to de las Casas, when they arrived in Cuba they found three groups with different cultures: the Taínos, that were the most populous, constituting 90% of the island's inhabitants, and also the most developed, peoples of ceramists and farmers in the eastern end; the Siboyenes, fishermen from the central southern coast; the Guanahatabeyes, described as savage in their way of life as well as less developed. They lived in caves in the northernmost region²¹⁰.

Cuba Indígena Hoy then proceeds in illustrating indocuban DNA percentages throughout the island, with surprisingly high results in some regions²¹¹.

Traces of indocubanity are far from lost, people still adopt daily ways that belonged to their ancestors centuries ago, before the island was conquered by Europeans. Then why no one talks about them in a way that concerns who they are, and not a ghost of memories of the past, like two centuries of narrative have led everyone to believe?

As it has been said, the favorable vote cast in favor of UNDRIP for Cuba was 'an easy affair'²¹², since everyone on the island is indigenous.

The process of mythification of the 'indian', through the person of Hatuey, then Maceo and the mambíses²¹³, and finally in Che Guevara has, at least at first glance, proselytized everyone into thinking that the term indigenous almost indicates those who fight against oppressors, which at least is historically true. The indigenous in Cuba is respected and almost worshipped as what once was and from whom they draw some sort of aboriginal sense of belonging to the island. This feeling expresses itself in fighting the invader, which today can be identified with capitalism. While the term indigenous has certainly been politicized already, in different ways across the world, this politicization in

²¹⁰ CASAS, DE LAS, B., Obras escogidas, Ediciones Atlas, 1958, voll. 3-4.

MARCHECO, B., Cuba Indígena: Huellas en el ADN, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., Cuba Indígena Hoy: Sus Rostros y ADN, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 76.

²¹¹ MARCHECO, B., *ibid.*, pp. 75-98.

²¹² See *supra*, chapter 3, p. 13.

²¹³ See *supra*, chapter 3, para. 2.

particular partially²¹⁴ denatures it from the element of indigeneity and does not benefit those who at least carry on indocuban traditions today. UNDRIP becomes a means through which it is possible to ensure certain rights and protections under international law. For Cuba – a founding member of the Bolivarian Alliance for the Peoples of Our America (ALBA)²¹⁵ –, some of the values underlying the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) that overlap with ALBA’s ideals are especially felt. One of these is the imposition of capitalism as a continuous threat to the life of indigenous people²¹⁶.

‘In the case of Cuba, the prey is capitalism in general and the current system of free market globalization in particular. For that purpose everything must be bent—including the rights of indigenous people. Of course, for Cuban theorists the relationship is inverted. Capitalism bends the Indian to its purposes. As such, the project of indigenous peoples must be the eradication of capitalism. Within that matrix Cuba can stand apart and pure—it has no indigenous problem because the Island is itself indigenous’²¹⁷.

²¹⁴ The *mestizaje*, lasted for centuries, has certainly given to most of the Cuban populations partly indocuban DNA.

²¹⁵ ‘ALBA was born on December 14, 2004 in Havana, Cuba, through the subscription of a Conjunnt Declaration and the Agreement for the Application of ALBA, by the Commanders Hugo Chávez Frías, President of the Bolivarian Republic of Venezuela, and Fidel Castro Ruz, President of the State Council of the Republic of Cuba’.

Original: ‘El ALBA nace el 14 de diciembre de 2004 en La Habana, Cuba, mediante la suscripción de una Declaración Conjunta y el Acuerdo para la Aplicación del ALBA, por parte de los Comandantes Hugo Chávez Frías, Presidente de la República Bolivariana de Venezuela, y Fidel Castro Ruz, Presidente del Consejo de Estado de la República de Cuba’.

Historia del ALBA-TCP, available at: <https://www.albatcp.org/historia/> (last access: July 10, 2023)

²¹⁶ Mandato de los Pueblos y Naciones Indígenas Originarios a los Estados del Mundo, Chimoré, Cochabamba, October 12, 2007, in MORALES AYMA, E., La Tierra no nos pertenece, nosotros pertenecemos a la Tierra, Mensajes del Presidente Evo Morales Ayma sobre la Pachamama y el cambio climático 2006-2009, p. 16, available at: <https://www.cancilleria.gob.bo/webmre/sites/default/files/libros/01%20la%20tierra%20no%20nos%20pertenece%20nosotros%20perteneemos%20a%20la%20tierra.pdf> (last access July 10, 2023)

²¹⁷ CATÀ BAKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, p. 236.

Indigeneity in Cuba has nothing to do with the elements to being indigenous:

- historical continuity with pre-colonial societies;
- strong link to territories and surrounding natural resources;
- distinct social, economic or political systems;
- distinct language, culture and beliefs;
- being a non-dominant group of society;
- resolve to maintain and reproduce one's ancestral environments and systems as a distinct community²¹⁸.

Or, at least, some of these elements discern 'the Cuban' from anyone else outside the island. One wonders how much the long-imposed isolation of Cuba²¹⁹ may have influenced the way in which the meaning of this term was shaped, as along with the island's unique political history may have certainly favored at least the very minimum conditions.

Martí's view on indigenous people was shaped both by his early encounter with them²²⁰ and by the isolation that American colonies were experiencing while European democracies were starting to thrive. Castro needed the people to believe in a greater, better purpose²²¹, and for him to build a State independent from the United States' influence.

The presence of indocuban descent in the island that have kept traditions and religions from centuries ago from completely disappearing, that are still building traditional houses, that live in the mountainous regions where their ancestors lived, that have a different social system and way of life, that are a non-dominant group of society. Their lives show historical continuity with pre-colonial Cuba. Their collective rights, though,

²¹⁸ *Idem* at p. 1.

²¹⁹ Still withstanding, at least commercially.

²²⁰ See *supra*, p. 17.

²²¹ A very interesting perspective on the ideology behind the Cuban Revolution can be found in *Ideologia e Rivoluzione*, the first chapter of SARTRE, J. P., *Visita a Cuba – Reportage sulla Rivoluzione Cubana e sull'Incontro con Che Guevara*, Massari Editore, 2005, pp. 27-42. (E.n. It was not possible to read an English or Spanish version).

exist as part of the Cuban indigenous nation. Yet, the Taíno nation representatives in the Caribbean still prefer to keep a distinct identity against Cuba's conception of indigeneity. Barreiro highlights:

'In the middle of a housing shortage, current planning in Cuba discourages the building of bohios²²². They are considered symbols of the "past" and associated with "under-development." In Cuba, for many years, the bohio-dwelling Guajiro was isolated and subject to harsh and arbitrary mistreatment at the hands of the Rural Guard. Eastern Guajiros in Cuba today have more access to modern conveniences but complain about government regimentation over their agricultural practices and market. They still build many bohios, some quite comfortable, out of the Royal Palm'²²³.

²²² The *bohío*, coming from the Taíno word *bohi* (meaning 'house'), is a type of dwelling typical of Cuba, Hispaniola and other islands in the Caribbean, that consists of walls of '[...] Royal Palm, cedar, mahoe or mahogany, among others. The roof, generally gabled, is covered with yarey, guano, yuraguano or palma cana, palma justa or boba and manaca palm. When coconut palm stalks are used, they must be dry. If the hut is built on a hill, the front is placed to the east or west and is made from north to south; on flat terrain it is erected facing the royal road, highway or embankment. In its structure it has two or three rooms on the left, a living room and dining room, with other variants. At the back, the independent kitchen and the toilet, service or latrine, about 10 m from the bohío.

The construction of bohíos, [...] is done collectively, under the direction of the so-called carpenter of rustic work, a very popular and sought-after character.'

Original: '[...] palma real, cedro, majagua o caoba, entre otras. El techo, generalmente a dos aguas, se cobija con yarey, guano, yuraguano o palma cana, palma justa o boba y palma de manaca. Cuando se usan las pencas de cocotero, tienen que ser secas. Si el bohío se construye en una loma, el frente se sitúa al este u oeste y se hace de norte a sur; en terreno llano se levanta mirando al camino real, carretera o terraplén. En su estructura tiene dos o tres cuartos a la izquierda, una sala y el comedor, con otras variantes. Al fondo, la cocina independiente y el excusado, servicio o letrina, a unos 10 m del bohío.

La edificación de bohíos, caneyes y ranchos se hace de manera colectiva, bajo la dirección del llamado carpintero de trabajo rústico, un personaje muy popular y solicitado. Estas variantes constructivas indudablemente son herencia de nuestros primeros antecesores y expresión de la ingeniosidad de un pueblo que ha buscado soluciones con los materiales de su medio natural'.

HARTMANN, A., *Aquí Estamos*, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., *Cuba Indígena Hoy: Sus Rostros y ADN*, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 24.

²²³ BARREIRO, J., A Note on Tainos : Whither Progress?, *Northeast Indian Quarterly*, Fall 1990, note 1, available at: <http://www.hartford-hwp.com/archives/41/013.html#R1> (last access July 10, 2023)

What looks like an attempt at assimilation is not perceived in the same way from the Cuban State’s perspective, as Taíno are regarded as part of the agglomeration that makes indigenous Cuban a whole state-centric culture.

‘As a consequence, these sorts of restrictions on the Taíno are merely economic, and not cultural. On that basis, the Cuban state has been happy enough to sponsor Taíno activities. For example, Cuba hosted a conference of Taíno in Baracoa, Cuba, in 1997²²⁴ to “explore and celebrate the legacy of the Indigenous Peoples of the Caribbean.” The conference comported fully with the rhetorical understanding of Taíno involvement in Cuba expressed by Castro in 1985—the focus was historical and also internationalist. It sought to draw commonalities among the peoples of the Caribbean without intruding on the construction of Cuban indigenism’²²⁵.

The rights to self-determination²²⁶, to live as distinct peoples²²⁷, to have representatives, etc. are not accounted for. There is who has nonetheless seen in the Conference of Baracoa at least a partial shift in Cuba’s perspective on Taíno²²⁸. Even so, as Anaya said, ‘No discussion of indigenous peoples’ rights under international law is complete without a discussion of self-determination, a principle of the highest order within the contemporary international system. Indigenous peoples have repeatedly articulated their

²²⁴ Cuba – Indigenous Legacies of the Caribbean, available at: <https://www.afrocubaweb.com/indig.htm> (last access July 10, 2023)

²²⁵ CATÀ BAKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, pp. 237-238.

²²⁶ Art. 3, United Nations Declaration on the Rights of Indigenous Peoples.

²²⁷ Art. 7, *ibid.*

²²⁸ ‘Miguel Alfonso Martínez, then the Cuban delegate to the United Nations Working Group on Indigenous Populations, opened the Baracoa conference. He was quoted as stating that “although for a long time Cuba has been involved with the cause of the World’s Indigenous Peoples, it has never looked within to its own indigenous reality, this is something we are now working to change!”’.

CATÀ BAKER, L., From Hatuey to Che: Indigenous Cuba Without Indians and the U.N. Declaration on the Rights of Indigenous Peoples, in *American Indian Law Review*, No. 33, 2009, p. 238.

demands in terms of self-determination, and, in turn, self-determination precepts have fueled the international movement in favor of those demands'²²⁹.

It certainly is desirable the perspective of progressively bettering to then fix the structural lack of any kind of support finally for the Taíno identity as indigenous (even if within an 'indigenous country') and their culture as something still alive and practiced, even if by a few thousand²³⁰. The problem is that, in order to do that, one should first undo what two entire centuries – certainly with guilt shared among different actors, but always for reasons that could be summed up and defined as 'economic-political' – managed to carve into Cuban culture and perception.

It would be interesting to say the least, to witness how the modern descendants of Taíno and Cuban cultures have influenced each other²³¹, in such a deep and reciprocal way – for the whole population, and not only for those who live in their proximity, as it could surely be said about other countries – that is not something one gets to commonly witness. While there is a live testimony of Taíno descent in several parts of the island, these groups are not currently identifying with a non-majority presence in Cuba, none as indigenous in a way that implicates special protection, representation, and self-determination. While they recognize their indocuban ancestry, through keeping alive traditions – among which the most peculiar probably remains the building of bohíos – and residing in those territories that have known indigenous presence for centuries, they do not seem to be seeking any kind of particular recognition or protection, at least officially.

²²⁹ ANAYA, J., *Indigenous Peoples in International Law*, Oxford University Press, 1996, p. 75.

²³⁰ MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., *Cuba Indígena Hoy: Sus Rostros y ADN*, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022.

²³¹ After all, in Cuba's perspective, they can say to be viewed as Cuban principally, and indigenous Taíno secondly, if at all.

The Cuban State has incorporated part of the Taíno culture in the bigger, more inclusive, mixed container of Cuban indigeneity, for now, the only politically indisputable indigeneity in the biggest island of the Antilles²³².

²³² ‘They define themselves as “Cuban indians”, idea that they reaffirm when they identify themselves as “Cubans belonging to Cuba”. That ancestral connection with the island’s inhabitants before the conquest, they consider essence of their identity. They immediately add: “first thing first Cubans, Cuban farmers”. When they speak with pride of their *mambí* ancestors and see in Martí a spiritual guide, they connect with the deepest roots of nationality’.

Original: ‘Se definen como “indios de Cuba”, idea que reafirman cuando se identifican como “cubanos propios de Cuba”. Esa conexión ancestral con los pobladores de la Isla antes de la conquista, la consideran esencia de su identidad. Añaden inmediatamente: “primero que nada cubanos, campesinos cubanos”. Cuando hablan con orgullo de sus ascendientes mambises y reconocen en Martí una guía espiritual, se conectan con las más profundas raíces de la nacionalidad’, Gómez, E. J., Herencia Aborigen en el Siglo XXI Cubano, in MARCHECO, B., HARTMANN, A., GÓMEZ, E. J., LARRAMENDI, J. A., GARRIDO, H., Cuba Indígena Hoy: Sus Rostros y ADN, Agencia Española de Cooperación Internacional Para el Desarrollo, 2022, p. 66.

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