



UNIVERSITÀ  
DEGLI STUDI  
DI PADOVA

## Università degli Studi di Padova

Dipartimento di Studi Linguistici e Letterari

Corso di Laurea Magistrale in  
Lingue Moderne per la Comunicazione e la Cooperazione Internazionale  
Classe LM-38

Tesi di Laurea

# *The Importance of Preserving Indigenous Languages: the Case of Guaraní*

Relatore  
Prof. Giovanni Poggeschi  
Correlatore  
Prof.ssa Fiona Clare Dalziel

Laureanda  
Francesca Xotta  
n° matr.1129308 / LMLCC

Anno Accademico 2017 / 2018



# Table of Content

Introduction.....	pg.3
<b>Chapter 1 – Indigenous Peoples and language rights.....</b>	<b>7</b>
1.1 Definition of indigeneity.....	8
1.1.1 Difference between minorities and indigenous peoples.....	12
1.2 A historical overview on indigenous peoples’ rights.....	13
1.3 Indigenous peoples and human rights today.....	17
1.3.1 ILO Convention No. 107 and No. 169.....	18
1.3.2 UNDRIP.....	20
1.3.3 Other legal instruments.....	21
1.4 The Right of Self-Determination.....	22
1.5 Language Rights.....	24
1.5.1 Indigenous Peoples’ language rights.....	30
<b>Chapter 2-Indigenous Peoples’ Language Rights in Brazil.....</b>	<b>36</b>
2.1 Indigenous peoples’ language rights in Brazil: a sociological perspective	
2.1.1 Role of languages in the origins of national consciousness.....	37
2.2 Definition of social justice and sense of community.....	39
2.3 The importance of preserving indigenous languages.....	41
2.4 Indigenous peoples’ rights in Brazil.....	44
2.4.1 Historical overview on language rights.....	44
2.4.2 Indigenous peoples’ rights in Brazil today.....	47
2.4.3 Indigenous peoples’ language rights in Brazil.....	47
2.4.4 Brazilian Dualism.....	56

<b>Chapter 3- The Case of Guaraní.....</b>	<b>60</b>
3.1 The Guaraní population.....	61
3.2 The Guaraní language.....	64
3.2.2 Guaraní language in Brazil: a sociolinguistic perspective.....	66
3.3 The importance of education in indigenous mother-tongue.....	69
3.4 Examples of educational projects for preservation of the rights of Indigenous peoples.....	75
3.4.1 O Museu do Índio.....	77
3.4.2 An Indigenous Student Story.....	81
<b>Conclusion.....</b>	<b>87</b>
<b>References.....</b>	<b>89</b>
<b>Appendix.....</b>	<b>93</b>
<b>Summary in Italian.....</b>	<b>110</b>

## Introduction

The purpose of this thesis is to state the importance of the preservation of indigenous languages. Language is one of the several factors that contribute to the construction of ethnic identity, because “When we affirm categorically that all individuals and groups should enjoy universal LHRs [Linguistic Human Rights], this claim needs to be seen in the light of the political reality of unequal access to power”. By looking at several sources, I will try to state the importance of indigenous languages as a question of identity. In this regard, particularly useful is this quote of Benedict Anderson’s significant work *Imagined Communities* (ed. 1991:154)

[...] *amor patriae* does not differ in this respect from other affections, in which there is always an element of fond imagining [...] What the eye is to the lover – that particular, ordinary eye he or she is born with – language – whatever language history has made his or her mother-tongue – is to the patriot. Through that language, encountered at mother’s knee and parted with only at the grave, pasts are restored, fellowships are imagined, and futures dreamed.

This quote is important as it refers to languages and the idea of the mother tongue in order to explain the close relationship between language, identity and nation. However, this close relationship does not have to be confused with the idea of nationalism, because the conception of a strong sense of nation, as history has showed us, has always led to extremely dangerous deviations such as Nazism or Fascism.

The situation of indigenous peoples raises a number of important questions about the presupposition of both domestic and international justice, such as the relationship between the claims of individuals, communities and states; the nature of sovereignty; the accommodation of cultural differences and the application of non-discrimination on the ground of language.

In simple words, I will try to state the key role of languages and culture in the protection and promotion of the rights and identity of indigenous peoples. How language preferences or restrictions have excluded, or in other cases used to include indigenous peoples in various spheres of society, and this will be clear in the third chapter.

In the first chapter of the present work, I will try to give an overview of indigenous peoples' rights by stating the nature and scope of the rights of indigenous peoples as human rights, analysing their language rights as a means to empower them rather than to exclude them. It has to be reminded that the Declaration of the rights of the indigenous peoples of 2007, adopted by the United Nations, does not contain any statement on what should be understood by "indigenous people", leaving to the individual States the power to decide on the definition from which the attribution of rights that are not precluded to non-indigenous people. Nevertheless, the linguistic data and the pre-existence of colonization are decisive for qualifying those who belong to the indigenous peoples or not (Lanni 2011: 312).

Therefore, I will try to explain the definition of indigeneity thoroughly; from the etymological definition of the substantive to its legal one. As there are several definitions of *indigenous peoples*, I have selected those I have found clearer above all others from a number of different sources; the Cambridge Dictionary and works of scholars. I have tried to collect different definitions of the expression *indigenous peoples* as a legal category. Secondly, I will state the difference between indigenous peoples and minorities. Then, I will try to give a brief historical outline of the rights of indigenous peoples. After that, I will try to give an overview on indigenous peoples' rights today illustrating the ILO Convention, the UNDRIP (Universal Declaration on the Right of Indigenous People) and other legal instruments. Since it is considered one of the most important rights related to indigenous peoples, I will describe the right of self-determination. Finally, I will come to the core of my thesis; I will therefore define indigenous peoples' language rights.

The norms related to these kinds of language rights would also seem to indicate that even in the case of a language used by a relatively small number of individuals, a state may be obligated to provide resources for its maintenance. More importantly, it could be stated that there are in fact three quite different approaches and responses to languages and culture observable in international and European documents:

1. Protection of endangered languages
2. Human rights instruments
3. Protection or promotion of linguistic diversity

As the first chapter focuses on the laws regulating language rights and those regulating indigenous peoples' rights, the second chapter expands these topics by looking at indigenous peoples' language rights from a sociological perspective. In doing so, I have found the most useful resource in Anderson's, Kymlicka's and Sully's works on indigenous peoples in general.

After that, I will try to provide a more insightful reason on why it is important to preserve indigenous languages in general. For what concerns Brazil, the case study of my thesis, I will try to explain the nature of indigenous peoples' language rights firstly by giving a brief historical overview on it, and secondly by explaining the current status of indigenous peoples' language rights in Brazil, considering the concepts of indigenous multiculturalism and dualism. Indeed, in 2007, after 20 years of discussion, the UN adopted the UNDRIP approved by an absolute majority of 144 states. The necessity of implementing UNDRIP is due to those injustices that the Guarani suffer. These are in breach of the Brazilian Constitution, Brazil's Indian Statute, the UN Declaration on the Rights of Indigenous Peoples, the International Convention on the Elimination of All Forms of Racial Discrimination, and the International Labour Organisation's (ILO) Convention 169, to which Brazil is a signatory.

In the third chapter I will analyse the case study of my thesis, which is the Guaraní language and the need to promote linguistic diversity. Before starting, it is necessary to underline the fact that I will focus on Guaraní language in Brazil, not in Paraguay, as Guaraní is the official language of Paraguay (Gomez Rendon 2008:206), where "only with the fall of Stroessner's dictatorship in 1989 and the passing of a new Constitution in 1992, Guaraní obtained its official status on a par with Spanish". Firstly, I will mention the main characteristics of the Guaraní population, a number of historical facts relevant to it. In order to better explain the importance of preserving this indigenous community, I will mention the current situation of a Guaraní-Kaiowá, which is one of the most endangered ethnic group of Brazil, taking into account a report of Survival, a NGO whose main purpose is to raise awareness on indigenous endangered communities from all over the world. Secondly, I will focus on Guaraní language in general, presenting the main features of this language in Brazil by analysing it in sociolinguistic terms. Thirdly, I will

come to the most interesting and meaningful section of my thesis. I will explain why it is important to preserve, recognize and promote indigenous endangered languages considering a number of educational projects that have been carried out by several organizations. These consist in initiatives made by the *Museu do Índio* situated in Rio de Janeiro, teaching practices for indigenous people, and finally a testimony of a Guaraní student that states the importance of indigenous education. These initiatives state the potential of indigenous languages being languages of 'progress' and opportunities. These indigenous organizations are founded on an idea of development that, instead of being rooted in parameters of economic growth, is based on the principles of equity, solidarity and sustainability.



## **Chapter 1- Indigenous Peoples and language rights**

In this chapter I will try to give an overview of indigenous peoples' rights. Firstly, I will try to explain the definition of indigeneity thoroughly; from the etymological definition of the substantive to its legal one. Secondly, I will state the difference between indigenous peoples and minorities. Then, I will try to give a brief historical outline of the rights of indigenous peoples. After that, I will try to give an overview on indigenous peoples' rights today illustrating ILO Convention, UNDRIP (Universal Declaration on the Right of Indigenous People) and other legal instruments. Then, as it is considered one of the most important rights related to indigenous peoples, I will describe the right of self-determination. Finally, I will come to the core of my thesis; I will therefore define indigenous peoples' language rights.

## 1.1 Definition of indigeneity

As there are several definitions of *indigenous peoples*, I have selected those I have found clearer above all others. Firstly, it is useful to report a definition of the term *indigenous* from the dictionary. According to the Cambridge dictionary, indigenous means “naturally existing in a place or country rather than arriving from another place”<sup>1</sup>. In this perspective, indigenous peoples are to be seen in relation to the place dimension. The term *indigenous* derives from the late Latin word *indigenus*<sup>2</sup>, from Latin *indigena*, noun, native, from Old Latin *indu*, *endo* in, within + Latin *gignere* which means to beget. Analysing the Latin origin, it could be stated that the word is immediately connected to the space dimension.

Secondly, it is useful to state the definition of indigenous people as a legal category. As Lenzerini (2008:75) points out, the term “indigenous peoples” has failed to be univocally defined several times with the result that each definition greatly differs from the others. Consequently, several scholars oppose the idea of unifying such different realities in a common definition. Due to the great number of opinions, I will report only a few definitions of indigenous peoples. Lenzerini (2008:77) tries to find a common feature to all indigenous communities:

[...] one special feature which is common to virtually all indigenous communities is their special relationship with ‘Mother Earth’ and nature, characterized by a harmonic and holistic association based upon respect, interdependence and equilibrium. They have been able to preserve economic, social and cultural models in total harmony with the principle of sustainable development, characterized by the rational appropriation and use of natural resources which grants their valorisation as well as community participation and solidarity.

As reported by Sandberg McGuinne<sup>3</sup>, a Scottish-Swedish scholar, the original definition of indigeneity appeared in the 1972 UN Working Group for Indigenous Peoples.

---

<sup>1</sup> <https://dictionary.cambridge.org/it/dizionario/inglese/indigenous?fallbackFrom=english-italian> last access: 6/12/2017

<sup>2</sup> <https://www.merriam-webster.com/dictionary/indigenous> last access: 7/12/2017

<sup>3</sup> See [www.johansandbergmcguinne.wordpress.com/official-definitions-of-indigeneity/](http://www.johansandbergmcguinne.wordpress.com/official-definitions-of-indigeneity/)

However, as this definition was considered too restrictive, it was later amended to what follows in 1983:

Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part, under a state structure which incorporates mainly national, social and cultural characteristics of other segments of the population which are predominant.

- (a) they are the descendants of groups, which were in the territory at the time when other groups of different cultures or ethnic origin arrived there;
- (b) precisely because of their isolation from other segments of the country's population they have almost preserved intact the customs and traditions of their ancestors which are similar to those characterised as indigenous;
- (c) they are, even if only formally, placed under a state structure which incorporates national, social and cultural characteristics alien to their own.

In 1986, the following line was added, in the attempt of giving a wider definition of indigenous peoples<sup>4</sup>:

any individual who identified himself or herself as indigenous and was accepted by the group or the community as one of its members was to be regarded as an indigenous person (E/CN.4/Sub.2/1986/7/Add.4.para.381).

Summing up, the former definition reported by the Scottish Swedish scholar concerns indigenous peoples' communities, whereas the latter definition focuses on the individual.

While analysing indigenous peoples' legal context, it is immediately clear that the ILO 169 Convention has played a central role in the definition of indigeneity in relation to international law. The ILO ("International Labour Organization") Convention 169 has been considered "international law's most concrete manifestation of the growing responsiveness to indigenous peoples' demands" (Anaya 2000:47). In simple words, it is the ILO's Convention 107 revised. Once more according to Sandberg McGuinne, the ILO 169 Convention applies to the following peoples:

both tribal peoples 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, and to peoples who

---

<sup>4</sup> See [www.johansandbergmcguinne.wordpress.com/official-definitions-of-indigeneity/](http://www.johansandbergmcguinne.wordpress.com/official-definitions-of-indigeneity/)

are regarded as indigenous on account of their descent from the populations which inhabit the country at the time of conquest or colonisation.

In 1991, the World Bank adopted the following definition of indigeneity. Indigenous Peoples can be identified in particular geographical areas by the presence in varying degrees of the following characteristics:

- a) close attachment to ancestral territories and to the natural resources in these areas;
- b) self-identification and identification by others as members of a distinct cultural group;
- c) an indigenous language, often different from the national language;
- d) presence of customary social and political institutions; and
- e) primarily subsistence-oriented production.

It is extremely important to underline the fact that, according to Kingsbury (2001:102), ILO Conventions 107 (1957) and 169 (1989) “are attempts to establish such a concept systematically, although with virtually no involvement of indigenous peoples in the drafting process of Convention 107 in the 1950s, and appreciable but nonetheless limited involvement in the Convention 169 process in the 1980s”. Although there have been such difficulties, these attempts to establish indigenous peoples as a legal category must be regarded as fundamental steps towards legal recognition of indigenous communities. As a matter of fact, Kingsbury (2001:103) continues as follows:

Convention 107 has been invoked by national courts and international bodies to call attention to violations relating to indigenous land rights, displacement, and resettlement, and Convention 169 has been invoked by the Colombian Constitutional Court in determining that consultation with and participation of indigenous people in an oil exploration licensing decision had been inadequate.

Interestingly, Kingsbury argues that no general agreement has been reached in the UN in order to find a definition of indigenous peoples as a legal category although the ILO and the World Bank have given criteria to define this category. The scholar (2001:107-108) gives a list of several requisites that indigenous peoples as a legal category should have:

- (1) essential requirements:
  - (a) self-identification as a distinct ethnic group;
  - (b) historical experience of, or contingent vulnerability to, severe disruption, dislocation, or exploration;
  - (c) long connection with the region;
  - (d) the wish to retain a distinct identity;
- (2) relevant indicia:
  - (a) strong indicia
    - (i) non-dominance in the national (or regional) society (ordinarily required);
    - (iii) close cultural affinity with a particular area of land or territories (ordinarily required);

- (iii) historic continuity (especially by descent) with prior occupants of land in the region;
- (b) other relevant indicia
- (i) socioeconomic and sociocultural differences from the ambient population;
- (ii) distinct objective characteristics: language, race, material or spiritual culture, etc.;
- (iii) regarded as indigenous by the ambient population or treated as such in legal and administrative arrangements.

As is clear, language is mentioned just in this definition as a relevant indicium of indigenous people. So, language appears as a side component in the definition of indigenous peoples. In this dissertation, however, it is central.

Anaya (2000:3) sums up what has been said in the previous definition quoted:

the term *indigenous* refers broadly to the living descendants of preinvasion inhabitants of lands now dominated by others. Indigenous peoples, nations, or communities are culturally distinctive groups that find themselves engulfed by settler societies born of the forces of empire and conquest.

Here Anaya states that indigenous peoples are culturally distinctive groups maybe including the linguistic dimension. Moreover, Anaya states that indigenous peoples feel deeply connected to the lands in which they live, “or would like to live”. This way, we are facing an important issue that occurs when the question of indigenous peoples is considered. That is, the question of land rights. This dissertation does not consider land rights and the legislative body that regulate them, but it is important to stress the fact that indigenous peoples define themselves with the language they speak but also with the lands in which they live. I would also add that, as Anaya (2000:3) points out, indigenous peoples “are people to the extent they comprise distinct communities, tribes, or nations of their ancestral past”.

Several scholars report the definition made by Martinez Cobo in the *Study on the discrimination against indigenous peoples* called “working definition”:

Indigenous communities, peoples and nations are 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-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<sup>5</sup>.

Interestingly, this definition mentions the concept of *historical community* related to pre-invasion and pre-colonial societies. However, the space dimension is also important in the context of indigenous rights; indigenous peoples in general, with the exception of the nomad communities, find themselves in deep connection with the land where they live.

### **1.1.1 Difference between minorities and indigenous peoples**

In order to better explain the difference between ‘minorities’ and ‘indigenous peoples’, it is useful, first of all, to look at the philological definition of the two terms. To do so, I have looked at the Cambridge Dictionary definition of *minority*: ‘a group of people of a particular race or nationality living in a country or area where most people are from a different race or nationality’. Instead, the definition of the adjective ‘indigenous’ is: ‘naturally existing in a place or country rather than arriving from another place’<sup>6</sup>. As the definition of indigeneity has been reported in paragraph 1.1, it is useful here to better explain the concept of minority. Looking for the legal definition of ‘minority’, it is helpful to report the one of the Special Rapporteur Francesco Capotorti (2003:165):

[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, religion or language.

In addition, according to Castellino-Gilbert (2003:165), the two scholars ‘from existing human rights documents it can be categorically stated that minorities do not have the right to self-determination’ as minorities aim to an integration within society and this is the opposite of self-determination which may encourage for separatism.

---

<sup>5</sup> See Guidelines on Indigenous peoples’ issues, United Nations Development Group, New York and Geneva, 2009, p. 8 available at <http://www.ohchr.org/EN/Issues/IPeoples/Pages/UNDGGuidelines.aspx>

<sup>6</sup> See <https://dictionary.cambridge.org/it/dizionario/inglese/indigenous>

According to the scholars, indigenous peoples are ‘territorial minorities’. So, it could be argued that indigenous people are a kind of minority.

## **1.2 A historical overview on indigenous peoples’ rights**

The discoveries of Christopher Columbus, and later ones as well, brought up the necessity to face the question regarding the relationship between Europeans and the indigenous peoples encountered by them. There were a number of theorists who studied this as a sociological phenomenon, as Anaya (2000:9-10) points out:

[...] prominent European theorists questioned the legality and morality of claims to the “New World” and of the ensuing, often brutal, settlement patterns. Enduring figures in this discussion were the Dominican cleric Bartolomé de las Casas (1474-1566) and Francisco de Vitoria (1486-1547). De las Casa gained notoriety as an ardent defender of the people indigenous to the Western Hemisphere who became known to the world as (the other) Indians [...] vividly describing the enslavement and massacre of indigenous people in the early sixteenth century in his *History of the Indies*.

Francisco de Vitoria was a primary professor of theology at the University of Salamanca; his lectures on the Indians “established him among the often-cited founders of international law”. Moreover, as Anaya points out, those descriptions made by Francisco de Vitoria of European encounters with indigenous peoples of the Western Hemisphere were of the utmost importance. In fact, they helped develop a system of principles and rules governing encounters among all peoples of the world. According to de Vitoria, the indigenous peoples met up to that point did hold some standard of rationality sufficient to entitle them to rights. However, the so called “Indians” did not conform to the European forms of civilization which Vitoria knew. As a matter of fact, we are facing what has been called by scholars “Eurocentric bias”; that is, in simple words, looking at a new situation from the point of view of a European citizen, constantly comparing it with a European standard.

These theorists did influence the modern scholarship view on indigenous peoples’ rights. Indeed, during the modern Era an important diplomat such as Emmerich de Vattel, in his work *The Law of Nations, or the Principles of Natural Law* (1758) elaborated the idea of a discrete body of law concerned exclusively with states. He defined the “*Law of Nations*” as “the science of the rights which exist between Nations or States, and the

obligations corresponding to these rights”. According to Vattel cited by Anaya (2000:10), “the individual/state dichotomy underlying Vattel’s construct has powerfully affected the tradition of Western liberal thought”. Consequently, this dichotomy had been crucial to apply in the context of indigenous peoples. In fact, the concept of the nation-state is based on European models of political and social organization whose defining characteristics are “exclusivity of territorial domain and hierarchical, centralized authority” (Anaya 2000:15).

This European perspective is evident in Vattel’s distinction between the “civilized Empires of Peru and Mexico” (evidently referring to the Incas and the Aztecs) and the North American “peoples of those vast tracts of land [who] rather roamed over them than inhabited them”. As to the former, “conquest ... was a notorious usurpation, [while] the establishment of various colonies upon the continent of North America might, if done within just limits, have been lawful” (Anaya 2000:15). As Lenzerini (2008:77) argues “since the first approaches with indigenous peoples, all strategies adopted along the centuries by the Western world (and, a fortiori, by *international law* which is actually the creation of Western states), in order to ‘regulate’ their life, have generally produced the practical outcome of destroying or damaging the physical integrity as well as the cultural and anthropological identity of the peoples concerned”. Lenzerini carries on his historical excursus about indigenous peoples by mentioning the doctrines of discovery, conquest and *terra nullis* and the various processes of civilization made by Christians. As a matter of fact, on May 4, 1493, the Roman Pontiff Alexander VI ordered, by means of the Papal Bull called *Inter Cetera*, that the so called ‘barbarous nations’ must be ‘overthrown’ and brought to the Christian religion. As a result, the lands of indigenous peoples were occupied and were considered as territories belonging to the holy European sovereigns. As it has been previously stated, scholars such as Francisco de Vitoria and Bartolomé de Las Casas condemned these kinds of attitudes towards indigenous peoples. Nonetheless, indigenous peoples were still considered brutal and barbarous communities to be extinguished. The Italian scholars bring the example of the Declaration of Independence of 1776 in which the American colonies blamed King George III of England of having brought “the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions” (2008:78).



Importantly, during the nineteenth century “a less blatant day-by-day strategy” led to the disappearance of many indigenous groups as ethnic communities. This has been regarded as a ‘genocidal’ approach which caused the physical annihilation of many indigenous communities; in addition to that, other communities were drastically reduced in size. The major premises of the late-nineteenth- and early-twentieth-century positivist school were the following:

- international law was concerned only with the rights and duties of states;
- exclusive sovereignty of states;
- international law is law *between* and not *above* states.

These premises meant that Indian tribes and other indigenous peoples, not regarded as states, could not participate in the development of international law, nor could they “affirm the rights that had once been deemed to inhere in them by natural or divine law” (Anaya 2000:19). During the twentieth century, the major international law publicists repeated the view that indigenous peoples had no status or rights belonging to international law. In *International Law* (1920), Lassa Oppenheim argued that the basis for excluding indigenous peoples from the subjects of international law was reduced to their subjective nonrecognition by those within the “Family of Nations.” The “Family of Nations” consisted in the “old Christian States of Western Europe”; “the body of Christian States which grew up outside Europe”, including “the American States which arose out of colonies of European States”; “non-Christian” states of Turkey and Japan, excluding “such states as Persia, Siam, China, Abyssinia, and the like” because they had failed to “raise their civilisation to the level of that of the Western” states (Anaya 2000:21). Positivist theorists argued that both the European states and their offspring within the “Family of Nations” *never had* considered the indigenous peoples able to possess rights of international law. In addition to this, for international law purposes, indigenous lands prior to any colonial presence were considered legally unoccupied or *terra nullius*, which means vacant lands. More precisely, “an indigenous community’s right to govern itself in its lands, as well as any right not to be conquered except in a “just war”, was simply considered outside the competency of international law” (Anaya 2000:22). American tribes were called “uncivilised tribes”.

It is also interesting to look at what some single states did during these years. In this passage, Anaya mentions the cases of Great Britain and the United States. The former had the objective of reengineering native peoples' system of values according to European standards. Indeed, Anaya (2000:24) states:

Among the colonial powers of the nineteenth century, Great Britain was a leader in devising special administrative regimes over native peoples with the objective of reengineering their cultural and social patterns in line with European conceptions of civilized behaviour.

More importantly, in 1888 the Institute of International Law, a consortium of international jurists dedicated to the study and the development of international law, adopted a statement on the conditions required for a state to secure good title to occupied territory. Pursuant to the civilizing mission, government and Christian church agents proceeded, through the early part of the twentieth century, to break down indigenous forms of political and social organization by disrupting communal landholdings, and lately suppressing cultural practices. In this regard, Anaya (2000:46) says:

Hence the civilizing mission – against the backdrop of the dominant positivist frame of international law that effectively diminished indigenous peoples' rights – ultimately facilitated the acquisitive forces that wrested control over indigenous peoples and their lands.

So, it could be stated that this attempt of indigenous peoples to see their rights recognized failed in favour of a Eurocentric system of standards that did not consider indigenous peoples and their cultures as equals.

During the 70s, indigenous peoples made direct appeals to international intergovernmental institutions; representatives of indigenous peoples from throughout the Western Hemisphere attended the 1977 Conference contributing to 'forging transnational indigenous identity' that lately expanded to embrace indigenous peoples from other parts of the world. Thanks to their participation to the 1977 Conference, indigenous peoples' representatives began to take part to U.N. human rights bodies more and more often. Indigenous peoples also tried to draw attention on the Inter-American Commission on Human Rights. In 1989, states of the Amazonia Cooperation Treaty established a Special Commission on Indigenous Affairs in order to ensure the effective participation by every Amazonian Country's indigenous population. In 1992 the Indigenous People' Fund was

created. In 1991, the World Bank financed development projects in less-developed countries where many of the world's indigenous people lived. Later, in 1992, the Rio Declaration and Agenda 21, a more detailed environmental program and policy statement, reiterated precepts of indigenous peoples' rights and sought to incorporate them within the larger agenda of global environmentalism and sustainable development. In Europe, the Helsinki Document 1992, *The Challenge of Change*, was adopted by the Conference on Security and Cooperation. This document includes a provision in favour of indigenous peoples' rights. Moreover, the Vienna Declaration and Programme of Action adopted by the 1993 United Nations Conference on Human Rights urged greater focus on indigenous peoples' concerns within the U.N. system. In conclusion, it could be stated that, following Anaya's ideas, the historical context of indigenous peoples is constantly changing in a way that, though with difficulties, is carrying out a body of reforms that concerns indigenous peoples.

### **1.3 Indigenous peoples and human rights today**

As said before, scholars tend to analyse the indigenous peoples as a legal category from the point of view of the colonizer. Nonstate actors have raised awareness on indigenous peoples' issues. This category consists of individuals, international organizations, transnational corporations, labour unions, and other nongovernmental organizations that play an important role in procedures that shape international law normatives (Anaya 2000:40). The United Nations Charter, among its founding principles, lists "sovereign equality" and "territorial integrity" of member states and for non-intervention into their domestic affair. Moreover, the charter establishes the promotion of equal rights and self-determination of peoples "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" and "conditions of economic and social progress and development". The Charter also highlights peace and world security as the organization's ultimate objectives (Anaya 2000:41).

### 1.3.1 ILO Conventions No. 107 and No. 169

The ILO Convention No. 107 of 1957 has been extremely important in the process of affirming the rights of indigenous peoples. That is mainly because it was created to emphasize the vulnerability of indigenous workers. However, in the ILO Convention No 157 has identified a problem: the fact that indigenous *peoples* or *groups* are only secondarily made beneficiaries of rights or protections. As a matter of fact, they only appear in article 3: “special measures shall be adopted for the protection of the institutions, persons, property and labour of these populations”. So, the ILO Convention No 169 of 1989, a revision of the earlier Convention No 107, is regarded as the international law’s most concrete manifestation of the growing responsiveness to indigenous people’s demands (Anaya 2000:47). The revision was made by a “Meeting of Experts” which included representatives of the World Council of Indigenous Peoples, a confederation of indigenous groups from all around the world. As deliberated in the meeting, the language of Convention No. 107 was outdated. It was argued that, when Convention No. 107 was under discussion, “it was felt that integration into the dominant national society offered the best chance for these groups to be part of the development process of the countries in which they live”. This inevitably brought to a number of undesirable consequences such as the extinction of ways of life which were different from that of the dominant society. Therefore, the Sub-Commission’s Special Rapporteur stressed the necessity of considering an approach which took into account the claims of indigenous populations. This led to implementing policies of pluralism, self-sufficiency, self-management and ethno-development. Initiatives that would give indigenous populations the best possibilities and means of participating directly to the implementation of such policies.

The ILO Convention No 169 then came into force in 1991, with the ratifications by Norway and Mexico. The convention’s preamble was as follows:

the aspiration of [indigenous] peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live.

In addition to that, cultural integrity, land and resource rights and non-discrimination had to be respected in social welfare spheres. Generally speaking, it meant that states had to

respect indigenous peoples' aspiration in all decision affecting them. In this regard, the words of Lenzerini (2008:3-4) have been useful:

In order to merge all these duties within a single and comprehensive concept, one can say that states have the obligation of realizing all requirements and conditions that are necessary and sufficient for ensuring effective and adequate enjoyment of internationally recognised human rights by all individuals and groups within their jurisdiction.

It could be then stated that the necessity to implement a new ILO Convention such as No. 169 was the signal of the mobilization of social forces through the human rights frame of the contemporary international system (2008:47). The ILO Convention No 169 has been considered by Lenzerini a 'revolutionary transformation in the approach of international law' (2008:84). The 17 states of the ILO Convention No 169 are: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Guatemala, Honduras, Mexico, Netherlands, Norway, Paraguay, Peru, Venezuela<sup>7</sup>.

Art 1 para 3 was created to prevent any secessionist claim that could be advanced by indigenous communities in application of the principle of self-determination. Nonetheless, the main principles proclaimed by the Convention regarded the right of indigenous people to 'enjoy the full measures of human rights and fundamental freedoms without hindrance or discrimination' (2008:84-85) adding that the Convention recognized indigenous peoples 'freely-expressed wishes as well as respectful and protective of 'the social, cultural, religious and spiritual values and practices'. The ILO Convention also recognizes the indigenous peoples' right 'to retain their own customs and institutions'. Here provisions prescribing that indigenous children are educated according to their own culture can be found and, 'wherever practicable, [are] taught to read and write in their own indigenous language or in the language most commonly used by the group they belong to'. Part II of the ILO instead focuses on land rights.

---

<sup>7</sup> See <<http://www.ilo.org/english/convdisp1.htm>>

### **1.3.2 The United Nations Declaration on the Rights of Indigenous Peoples**

On June 29, 2006 the Human Rights Council adopted the United Nations Draft Declaration on the Rights of Indigenous Peoples. The UN Declaration on the Rights of Indigenous Peoples was then approved on September 13, 2007. Despite its nonbinding character, its adoption was postponed more than once; indeed, states had been reluctant to approve it. One of the problems was related to the use of the term ‘peoples’ instead of ‘people’ or ‘populations’. This point was considered critical for the potential implications attached to the term in international law, which could lead to claims of independence and secession by indigenous communities (Lenzerini 2008:88). Declaration does not have an equivalent to the Art 1 para 3 of Convention No 169. As reported by Wright-Tomaselli-Ganoza, “the “boomerang” pattern of using international allies and legal instruments to exert pressure over unwilling national governments leads to mainly symbolic rather than substantive victories” (Wright - Tomaselli- Ordóñez Ganoza 2014:1).

According to Cittadino (in Wright-Tomaselli- Ordóñez Ganoza 2014:2), the Declaration is important for the rights of indigenous communities for two reasons. Firstly, it is accessible, and therefore comprehensive, about collective and individual rights. Secondly, it can be used to clarify the scope of the clauses of the Convention on Biological Diversity that affect indigenous peoples. More importantly the Italian scholar makes an interesting point about the process of adaptation of the Declaration:

the lengthy process to adopt the Declaration reflects how the question of the respect for human rights and indigenous peoples is a difficult one for many States as well as the importance of offering guidelines to ensure that the UNDRIP is implemented in practice article (C. Wright -A. Tomaselli-S. Ordóñez Ganoza 2014:3).

The United Nations Declaration on the Rights of Indigenous Peoples (see appendix) is composed by 46 articles. It was adopted by the General Assembly on the September 13, 2007 as a nonbinding act of international law after 144 states voted in favour, 4 against (Australia, Canada, New Zealand and the United States) and 11 preferred abstention. Here follows a summary of contents:

- articles 1 - 8; 33 -34: rights of self-determination (art 3) of indigenous individuals and peoples; ‘right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions’. Art 7 mentions the prohibition of genocide. Art. 8 states

the right of indigenous peoples not to be subjected to assimilation or destruction of their culture.

- articles 9 - 15, 16, 25, and 31: rights of indigenous individuals and people to protect their culture through practices, (languages, education, media, and religion; art. 10 of UN Declaration affirms the right not to be forcibly removed from their lands or territories
- articles 17 - 21, 35 -37: asserts the indigenous peoples' right to own type of governance and to economic development;
- articles 23 -24: health rights;
- article 22: protection of subgroups (ex. elderly, women, and children);
- article 10: land rights from ownership (including reparation);
- articles 26 -30, and 32: environmental issues; art 26 deals with the *restitution* of the lands which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent and the right to maintain cultural heritage;
- articles 38 – 46: how this document should be understood for future reference.

### **1.3.3 Other legal instruments**

For the rights of indigenous Peoples, it is also fundamental to refer to the American Declaration on the Rights of Indigenous Peoples that was approved by the Inter-America Commission on Human Rights on February 26, 1997. Following the example set by Convention No 169, it has a more state-oriented approach than the UN-Declaration. However, all main prerogatives claimed by indigenous peoples are recognized in the text: effective benefit from the human rights, right to express and develop cultural identity, right to cultural integrity, right to autonomy or self-government, land rights. Other international legal instruments are Art 8(j) of the 1992 Convention on Biological Diversity and Art 27 of the 1966 International Covenant on Civil and Political Rights (ICCPR) (Lenzerini:89). The ICCPR's Art 27 defines the right of indigenous peoples to enjoy their own culture, to profess and practice their own religion, or to use their own language. It defends rights of members of minorities, including indigenous communities. However, as previously stated, minorities and indigenous peoples are to be considered as two different legal categories.

Following the ideas of Lenzerini (2008:81), there is an inclination towards paternalism that continues to be part of the international community. He argues that *we*, as inhabitants of Europe, are the dominant and most powerful culture and we are using our power to protect *their* rights, “presupposing that indigenous peoples are unable to preserve and enjoy their own rights by themselves”. This attitude was evident even in recent times, during the negotiations for the Convention on the Safeguarding of Intangible Cultural Heritage that was adopted by UNESCO General Conference in October 2013. Following Lenzerini’s ideas, most state representatives were convinced that indigenous communities were not able to protect themselves and their heritage without asking for help to the territorial government. As Lenzerini (2008:81) argues, indigenous communities were made dependent on national governments and their continuous interference: “this has led to the creation of a social environment in which it is virtually impossible for the communities concerned to follow their own way of life”.

#### **1.4. The right of Self-determination**

The right of self-determination is one of the main contested rights among those of indigenous peoples. Indeed, according to James Crawford (2001:7), the right of self-determination is considered “perhaps the most controversial and contested of the many controversial and contested in terms of international law”. Kingsbury (2001:88) defines the right of self-determination as follows:

Self-determination has long been a conceptual morass in international law, partly because its application and meaning have not been fully formulated in agreed texts, partly because it reinforces and conflicts with other important principles and specific rules, and partly because the specific international law practice of self-determination does not measure up very well to some of the established textual formulations.

Thus, it could be argued that self-determination has been controversial for two main reasons: firstly, because it conflicts with other principles and secondly because its applicability criteria are not particularly clear. According to the Declaration, States should establish mechanisms to guarantee these rights.<sup>8</sup> The United Nations Declaration on the

---

<sup>8</sup> See guidelines on Indigenous peoples’ issues, United Nations Development Group, New York and Geneva, 2009, available at <http://www.ohchr.org/EN/Issues/IPeoples/Pages/UNDGGuidelines.aspx> p14



Rights of Indigenous Peoples states in its third article that “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” as reported in the guidelines. This article is based on Art. 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. This means that autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions should be granted.

In other cases, indigenous peoples seek the conditions for self-management. In order to give a historical overview on the idea of self-determination, the article by Castellino-Gilbert (157) should be referred to; indeed, according to the two scholars, self-determination finds its roots in the Enlightenment (late eighteenth and nineteenth centuries). However, it became more and more internationally relevant thanks to the American and French Revolutions. Koskeniemi (1994:43) points out that self-determination consists of two models, the classical and the secessionist ones. The former is based on patriotic values and on a Hobbesian reading of international society. According to this model, nations are collections of individuals who make the rational decision to get together in order to constitute a society. The latter, which is the secessionist model, occurs when a ‘nation’ is oppressed by another; the oppressed nation has the right to act against that oppression creating its own institutions of government through which to express its community aspirations. Castellino and Gilbert (2003:157) carry out a number of examples in order to better illustrate the right of self-determination. They mention Creole emancipation from Spain between 1810 and 1825 and Brazil emancipation from Portugal. Here, both notions of self-determination occur:

[M]otivated by an overarching desire to discard the yoke of domination by Madrid and Lisbon, the Creoles, born of European parentage, struggled for control over a decision-making process, fuelled by aspirations of romantic, idealist notions.

Therefore, self-determination has been fundamental in the process of decolonisation as it was seen as the main sentiment of peoples seeking emancipation from the “colonial yoke”. The term “self-determination” appeared in the 1960 a Declaration on the Granting of Independence to Colonial Countries and Peoples (Castellino-Gilbert:159); also, it is

considered extremely important for the right to self-determination because it states that any subjugation, domination or exploitation of people constitutes a denial of human rights. However, self-determination today leaves several questions open:

(a) whether it still has validity in a post-decolonisation phase; (b) who is entitled to self-determination as currently expressed, and (c) to what extent should the availability of appropriate solutions temper the appropriateness of the legal norm (Castellino-Gilbert: 164).

## 1.5 Language rights

In this paragraph, I will give an overview on language rights. Poggeschi (2010:32) defines three types of language rights. The first type concerns the fundamental rights; also, it occurs when non-discrimination on the ground of language is at stake. The scholar argues that this type of language rights concern the citizen of a state, not foreigners or immigrants. For example, the right of an individual belonging to a linguistic minority to be able to understand the language of a judicial process is a first type language right. Moreover, this type of rights concerns the integration of the individual belonging to a linguistic minority into the majority. It is therefore simple for a first type language right to become part of the second type. The second type of language right defined by Poggeschi are those dealing with historical or national minorities; they could be different from each other. This is the case of Alto Adige/Südtirol in Italy or Québec in Canada, where the protection of linguistic minority is particularly strong so that the minority language is considered as an official language of the state. The third type of language right deals with language policies provided for both historical and “modern” or “post-modern” minorities such as the communities of immigrants. This type of rights deals with multilingualism values and is concerned with immigrants and their offspring. They are, for example, health or education rights. To better illustrate the concept of language right it is useful to report a number of definitions that have been given to it. Arzoz (2007:4) defines language rights as follows:

[L]anguage rights are concerned with the rules that public institutions adopt with respect to language use in a variety of different domains. Constitutionally speaking, language rights refer to a *particular* language or small group of *languages*.

In his definition, the Basque scholar focuses on the relationship between languages and public institutions and consequently on the fact that these types of rights define small groups of languages. In the next definition, the complexity of language rights is stressed:

The nature of these rights in international law is extremely complex and changes over time, reflecting developments in the philosophical and political underpinning of efforts to clarify universal standards, and the practical constraints on their implementation (Thornberry 1991, de Varennes 1994, 1995a, b in linguistic rights and wrongs)

Summing up, it is therefore complicated to define the nature of these rights as they change over time. As a matter of fact, the scholar (Arzoz 2007:31) also affirms that constitutional language rights are accorded “for the sake of basically protecting certain language communities (for instance, Swedish and French-speaking citizens in Finland and Canada respectively). More importantly, he states the fact that language rights are “local, historically-rooted claims, not fixed universal”. So, it could be stated that the complexity of language rights is mainly caused by changes over time and the practical problems occurring in the implementation of the universal standards related to language rights. In 2013, Rita Izsák-Ndiaye (the United Nations Special Rapporteur on minority issues) presented her annual report to the United Nations Human Rights Council focusing on challenges and rights of linguistic minorities (A/HRC/22/49). At the beginning of the report she introduces the definition of language rights distinguishing them from linguistic rights:

‘Language rights’ and ‘linguistic rights’ are human rights that have an impact on the language preferences or use of state authorities, individuals and other entities. Language rights are usually considered broader than linguistic rights [...]. Language is central to human nature and culture, and is one of the most important expressions of identity. Issues surrounding language are therefore particularly emotive and significant to linguistic minority communities seeking to maintain their distinct group and cultural identities, sometimes under conditions of marginalization, exclusion and discrimination (2013:5).

Oppositely, Arzoz (2007:5) distinguishes between negative and positive rights looking at them as two different categories of rights defining them “two kinds of protection that can be granted by law”. On one hand stands the regime of linguistic tolerance, which consists of rights that protect speakers of minority languages from discrimination. On the other hand, we also have the regime of linguistic promotion including positive rights such as those regarding education, relationships with public power (government, courts, etc.) and public media using minority languages. Arzoz (2007:13) underlines the fact that there is

the need for a context-based approach to apply language rights and the consequent management of linguistic diversity:

the number of languages in the world is around 6,000, the world population around 6 billion and the number of states almost 200: most states have many languages within their boundaries. These figures give a first impression of the difficulty of state management of linguistic diversity.

Later, the Basque scholar, using the words of Kibbee, expresses his concern for a human rights approach when discussing about language rights:

Kibbee has rightly reminded us that — a human rights approach is inherently universalistic and assumes a uniform set of circumstances which trigger application of corrective measures, but that — circumstances are hardly universal (2007:13).

According to Arzoz, The Framework Convention for the Protection of National Minorities (1995) and the European Charter for Regional or Minority Languages (1992) (ECRML) prepared by the Council of Europe, represent the most advanced tool of international minority protection available in the world today (2007:15). ECRML is a binding instrument and there is a committee monitoring it. It protects and promotes regional or minority languages, but not linguistic minorities. Thus, it stresses the importance of the cultural dimension and the use of a regional or minority language in all the aspects of the life of its speakers. The aim of the ECRML is not to guarantee human rights per se, but to protect regional and minority languages as an integral part of the European cultural heritage. Moreover, ECRML does not establish any individual or collective rights for the speakers of regional or minority languages (Arzoz 2007:16). The Basque scholar says that ECRML shows a few deficiencies. On one hand, it does not guarantee enforceable rights, neither individual nor collective; on the other hand, it encourages to protect regional or minority languages. Coming to the core of his analysis, Arzoz (2007:18) says:

[T]he point is that the ECRML does not aspire beyond defining the rights of linguistic minorities, but rather limits itself to providing the rudiments for developing context-based standards of protection of regional or minority languages: the context-based varying standards established by the ECRML should be adjusted by the states to the needs of each particular language, taking account of the needs and wishes expressed by the group which speak it.

Looking at the national constitutions, Arzoz states that the constitutions of 173 states of the world include provisions related to language but only 22 states have no constitution,

or no constitutional provisions related to language. In Europe, there are 37 states that include provisions related to language and 9 states without constitution or constitutional provisions. The scholar later adds that most of those constitutions simply proclaim a given language as the state, official, or national one whereas other constitutions prohibit language as a ground of discrimination, i.e. art. 3 of the German Constitution. There are five different rights contained in the constitutions:

- a. The right to freely use one's own language;
- b. The right to preserve one's linguistic identity;
- c. The right to be educated in one's own language;
- d. The right to use one's own language in the communication with some specific institutions;
- e. Other rights. (Arzoz 2007:20)

According to Arzoz (2007:23) there are also 3 models for the application of language rights. According to the first model, the role of language rights is to keep internal peace in order to avoid political struggles (i.e. in Finland). The second model provides an inter-state agreement to keep international peace. This model allows the recognition of language rights ruled by an international or an inter-state agreement. This model is being used for territories that have recently changed from one state to another (i.e. Åland Islands, border areas between Germany and Denmark, South Tyrol, and Slovenian minorities in Italy). The third model refers to those specific minorities providing new constitutionalism of CEE countries.

Looking at language rights from a European perspective, I have considered the ideas of Poggeschi. As the Italian scholar points out (2015:328), Article 27 of the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966) is the most important provision for language rights:

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Looking at the language rights from a European perspective and following the words of the Irish scholar, the Union Treaty says very little about language as indeed only two articles are relevant to this theme.

Article 314 states:

The treaty, drawn up in a single original in the Dutch, French, German, and Italian languages, all four texts being equally authentic, shall be deposited in The archives of the Italian Republic, which shall transmit a certified copy to each of the governments of the other signatory States. Pursuant to the Accession treaties, the Danish, English, Finnish, Greek, Irish, Portuguese, Spanish and Swedish versions of this treaty shall also be authentic.

Article 21 states:

...Every citizen of the Union may write to any of the institutions referred to in this Article or in Article 7 in one of the languages mentioned in Article 314 and have an answer in that language.

Moreover, the most important development of recent years is that the member countries of the Council of Europe have adopted a European Charter for Regional or Minority Languages, which was approved by the Committee of Ministers on June 22, 1992. This is defined as “a comprehensive document on the use of language in education, public services, media, cultural, economic and social life” by Skuttnabb – Kangas.

In order to give a historical overview of language rights, Skutnabb-Kangas and Phillipson work has proven to be extremely useful. According to the two scholars (1994:74), there are five main historical periods that reflect differences in the scope of the rights (rights related to state level, bilateral, regional/multilateral, international) and rights for linguistic minorities and individuals:

- First phase: pre-1815 when language rights were not covered in any international treaty, other than *bilateral agreements* created for religious minorities, not linguistic ones. During this period the state imposed a single language: i.e in France, at the time of the French Revolution, less than half the population had French as their mother tongue.
- Second phase: from the Final Act of the Congress of Vienna in 1815. It was “the first important *international* instrument containing clauses safeguarding *national minorities*, and not only religious minorities” (Capotorti 1979:2 in Skutnabb 1994: 74-75). After the Congress of Vienna in 1815, several national constitutions and few instruments safeguarded national linguistic minorities.
- Third phase: between the two World Wars, the Peace Treaties and multilateral and international conventions begun to protect minorities, and a number of national

constitutions provided the rights of linguistic minorities. The minority languages could be used by any individual (qui non so se ho capito bene il senso, quindi prendi con le pinze questa correzione XD) of the country of any language, in private intercourse, in commerce, in religion, in the Press or in publications of any kind, or at public meetings.

- Fourth phase: from 1945 to the 1970s. During this phase, a major effort to reach an international legislation for the protection of human rights was undertaken to prevent the abuses against human rights carried out by fascist regimes. During this phase, priority was given to this prevention of abuses; therefore, there was a lack of attention towards minority rights at this time. The United Nations Charter does not mention minorities.
- Fifth phase: during the 1970s, as there was a renewed interest in the rights of minorities including language rights, several multilateral declarations were made; for instance, Capotorti proposed the drafting of a declaration on the rights of members of minority groups (Skutnabb-Kangas and Phillipson 77).

More importantly, Skutnabb-Kangas and Phillipson point out that “language rights are considered often somewhat more specifically elaborated in instruments which are restricted to certain themes or apply to numerically small groups only, such as instruments relating to education or genocide, or to minorities or indigenous peoples”.

As Poggeschi points out (2015:328), Article 27 of the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966) is the most important provision for language rights:

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Looking at the language rights from a European perspective and following the words of the Irish scholar, the Union Treaty says very little about language, since only two articles are relevant to this theme.

Article 314 states:

The treaty, drawn up in a single original in the Dutch, French, German, and Italian languages, all four texts being equally authentic, shall be deposited in

The archives of the Italian Republic, which shall transmit a certified copy to each of the governments of the other signatory States. Pursuant to the Accession treaties, the Danish, English, Finnish, Greek, Irish, Portuguese, Spanish and Swedish versions of this treaty shall also be authentic.

Article 21 states:

...Every citizen of the Union may write to any of the institutions referred to in this Article or in Article 7 in one of the languages mentioned in Article 314 and have an answer in that language.

Moreover, the most important development of recent years is that the member countries of the Council of Europe have adopted a European Charter for Regional or Minority Languages, which was approved by the Committee of Ministers on June 22, 1992. This is defined by Skuttnabb – Kangas as “a comprehensive document on the use of language in education, public services, media, cultural, economic and social life”.

### **1.5.1 Indigenous peoples’ language rights**

Following the ideas of Skuttnabb – Kangas and Phillipson (January 2017) there has always been an “antagonism towards linguistic diversity” because “most linguistic majorities seem reluctant to grant "their" minorities rights, especially linguistic and cultural rights, because they would rather see their minorities assimilated”. This antagonism is “based on two myths”. The first myth is that monolingualism is often preferred, since it leads to economic growth; Joshua Fishman (1989) has shown that multilingualism is often a synonym of poverty. Moreover, monolingualism is uneconomical and violates linguistic human rights (Pattanayak 1988). The second myth, Skuttnabb – Kangas and Phillipson continue, is that minority rights have always been considered a threat to the nation states and this has led to an internal suppression of minority issues. However, as history has showed us, internal suppression of minority issues does not work:

In fact, according to Alfredsson, of the UN Center for Human Rights in Geneva, (1991, 39) "internal suppression of minority issues does not work; assimilation has been attempted and it inevitably fails. Minorities do not simply disappear; they may appear dormant for a while, but history tells us that they stay on the map. Nationalism and the drive to preserve identities are strong forces and they apply in equal measure to nation-states and to minorities... National experience teaches us that the recognition of and respect for special minority rights are viable alternatives to oppression and neglect" (Skuttnabb-Kangas and Phillipson: 2017).



In this regard, Hettne, in a study of language conflicts which are labelled as “ethnic”, states:

“...the problem is not that ethnic groups are different, but rather the problem arises when they are no longer allowed to be different, i.e. when they subjectively experience a threat to their own identity, a risk of ethnocide. This is a fundamental cause behind the politicising of ethnic identity” (1987: 67).

According to Smolicz (1979), as language has always been considered one of the most important cultural core values, it is therefore related to the identity of ethnic groups. Skuttnabb – Kangas and Phillipson point out that a language of an ethnic group is therefore to be considered a threat to the cultural and linguistic survival of the majority group. Also, that “lack of linguistic rights often prevents a group from achieving educational, economic and political equity with other groups”. For all these reasons, it the UN Universal Declaration on Rights of Indigenous People was created. This declaration “formulates language rights strongly, explicitly as a collective right, and with the state required to allocate resources” in order to put into practice a selective use of a territorial principle and positive discrimination in favour of speakers of minority languages. In the view of the two scholars the UN Declaration should guarantee that:

A) everybody can

1. identify with their mother tongue(s) and have this identification accepted and respected by others;
2. learn the mother tongue(s) fully, orally and in writing (which presupposes that minorities are educated through the medium of their mother tongue(s));
3. use the mother tongue in most official situations (including schools).

B) all people whose mother tongue is not an official language in the country where s/he is resident, can become bilingual (or trilingual, if s/he has 2 mother tongues) in the mother tongue(s) and (one of) the official language(s) (according to her own choice).

C) any change of mother tongue is voluntary, not imposed.

It is a challenge for applied linguistics to provide constructive models for the appropriate learning of first, second and foreign languages, as a contribution to the peaceful diminution of social injustice and to the promotion of LHR<sup>9</sup>

Recently, namely during 2013, the United Nations Special Rapporteur, Rita Izsák-Ndiaye, who became later the Independent Expert on minority issues, presented an annual report to the United Nations Human Rights Council that focused on the challenges and rights of linguistic minorities (A/HRC/22/49). Izsák-Ndiaye (2013:3) points out that

---

<sup>9</sup> See Handbook by the United Nations Special Rapporteur on minority issues ed. by Izsák-Ndiaye (2013) available at [www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx](http://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx)

many minority languages are under the threat of decline or disappearance caused by the dominance of national and international languages, processes of assimilation, and a decline in the number of minority-language users. Moreover, the language rights of indigenous peoples are also elaborated in a number of documents and international standards which are reported by Izsák-Ndiaye (2013:6):

- 1992 UN *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*;
- UNESCO's *Three Principles of Language and Education*;
- the various recommendations of the *UN Forum on Minority Issues on Implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*;
- the Council of Europe's *Thematic Commentary No. 3 on the Language Rights of Persons Belonging to National Minorities under the Framework Convention*;
- the Organization for Security and Co-operation in Europe (OSCE) *Oslo Recommendations Regarding the Linguistic Rights of National Minorities*.

As Arzoz points out, there is a number of international organizations that have developed processes, tools and instruments to implement these language rights principles. Among them we find the UN Forum on Minority Issues, UNESCO's Languages and Multilingualism Section, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities, and the OSCE High Commissioner on National Minorities. These "continue to provide a constructive set of platforms for the exchange of knowledge" (2007:5). As the Basque scholar argues, "the implementation of linguistic rights is important because it improves access to and the quality of education for minority children" (2007:7). Therefore "the emphasis of the linguistic human rights' approach is placed on language rights *to education*". Arzoz (2007:2):

It is argued that only the rights to learn and to use one's mother tongue and to learn at least one of the official languages in one's country of residence can qualify as inalienable, fundamental linguistic human rights.

Here, I will list the reasons why the implementation of linguistic rights is particularly important. Firstly, as Izsák-Ndiaye (2013:7) states, the implementation of linguistic rights is prominent because it improves access to and the quality of education for minority children. According to the World Bank:

"Fifty percent of the world's out of school children live in communities where the language of the schooling is rarely, if ever, used at home. This underscores the biggest

challenge to achieving Education for All: a legacy of non-productive practices that lead to low levels of learning and high levels of dropout and repetition”.

Izsák-Ndiaye then reports that the mother tongue is used as the medium of instruction for at least 6–8 years and the results are as follows:

enhanced self-confidence, self-esteem and classroom participation by minority children, lower dropout rates, higher levels of academic achievement,<sup>4</sup> longer periods in school, better performance in tests and greater fluency and literacy abilities for minority (and indigenous) children in both the mother tongue and the official or dominant language.

Secondly, the implementation of linguistic rights is important because it promotes equality and the empowerment of minority women (2013:8):

Minority women are among the most marginalized individuals in the world. They may also have had less access to schooling or opportunities to learn a majority or official language because of gender- or/and ethnic-based discrimination. Research shows that they perform particularly well when taught in their own language, thus increasing the likelihood of pursuing further studies or breaking out of the cycle of isolation and poverty.

Thirdly, the implementation of linguistic rights leads to a better use of resources and improves communication and public services. In this way, it contributes to stability and conflict-prevention (2013:10):

ethnic tensions and conflicts within a state are more likely to be avoided where language rights are in place to address the causes of alienation, marginalization and exclusion. Since the use of minority languages helps to increase the level of participation by minorities, as well as their presence and visibility within a state and even their employment opportunities, this is likely to contribute positively to unity and stability.

Finally, according to Izsák-Ndiaye (2013:11), the implementation of linguistic rights promotes diversity. As she states, the loss of linguistic diversity is a loss affecting humanity’s heritage, as states should not just favour one official language or a few “but value and take positive steps to promote, maintain and develop, wherever possible, essential elements of identity such as minority languages” as “embracing language rights is a clear step in promoting tolerance and intercultural dialogue, as well as building stronger foundations for continuing respect for diversity”. The special Rapporteur on minority issues (p. 11) underlines the importance of a human rights-based approach to language:

Laws, policies and processes must recognize language rights within a human rights framework i.e., authorities must integrate these into their conduct and activities, and mechanisms must be put in place to effectively address problem areas where they exist and improve compliance.

In her report, Izsák-Ndiaye categorizes four core areas in a human rights approach to language: dignity, liberty, equality and non-discrimination, identity. Firstly, the core area of dignity is set by Article 1 of the Universal Declaration of Human Rights which declares that all human beings are born free and equal in dignity and rights because “meeting the aspirations of minorities and ensuring their rights acknowledges the dignity and equality of all individuals, fosters participatory development and contributes to the lessening of tensions both within and among states”. Secondly, there is liberty. Liberty is defined as “the recognition of linguistic freedom as a fundamental language right in international law”. It is based on one of the following international legal obligations found in international human rights treaties (Izsák-Ndiaye 2013:11)

- freedom of expression, association or religion;
- the right to a private life;
- the right of individuals to use their own language with other members of their community;
- prohibition of discrimination.

The third core area, equality and non-discrimination, is an area of state activity or service, in which “authorities must respect and implement the right to equality and the prohibition of discrimination in language matters, including the language for the delivery of administrative services, access to the judiciary, the regulation of banking services by authorities, public education, and even citizenship acquisition”. More importantly, Izsák-Ndiaye (2013:11) states that:

Employment and economic opportunities are also increased by making a minority language a language of public service to a fair and proportionate degree, and service delivery including in critical areas such as public health reaches individuals more directly and effectively in their own language. Individuals understand better information provided to them in their own language by public media.

The fourth core area is identity: as language is considered a marker of the identity of linguistic minorities as communities. The Special Rapporteur states:

A non-discriminatory, inclusive and effective approach to language issues would also mean the use of topographical and street names in minority languages where minorities are concentrated or have been historically significant. Recognition and celebration of national identity should include an acknowledgment of the contributions of all components of society, including those of minorities and their languages.

To conclude the first chapter, I will now list the most important instruments provided to protect indigenous peoples (some specifically oriented towards indigenous women and children)<sup>10</sup>:

- The Convention on the Rights of the Child (1989)
- The Convention on Biological Diversity (1992)
- Agenda 21 (1992)
- The International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- The International Covenant on Civil and Political Rights (1966)
- The International Covenant on Economic, Social and Cultural Rights (1966)
- The International Conference on Population and Development (1994)
- The UNEP Malmoe Ministerial Declaration (2000)
- The Beijing Declaration and Platform for Action (1995)
- From UNESCO
  - » The Universal Declaration on Cultural Diversity and its programme of action (2001)
  - » The Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)
  - » The Convention for the Safeguarding of the Intangible Cultural Heritage (2003)
  - » The Convention Concerning the Protection of the World Cultural and Natural Heritage (1972)

---

<sup>10</sup> See Guidelines on Indigenous peoples' issues, United Nations Development Group, New York and Geneva, 2009, available at <http://www.ohchr.org/EN/Issues/IPeoples/Pages/UNDGGuidelines.aspx>

## **Chapter 2 – Indigenous Peoples’ Language Rights in Brazil**

The first chapter focused on the laws regulating language rights and those regulating indigenous peoples’ rights. These topics will be further expanded in this chapter by looking at indigenous peoples’ language rights from a sociological perspective. In doing so, I have found the most useful resource in Anderson’s, Kymlicka’s and Sully’s works on indigenous peoples in general.

After that, I will try to provide a more insightful reason why it is important to preserve indigenous languages in general.

For what concerns Brazil, the case study of my thesis, I will try to explain the nature of indigenous peoples’ language rights firstly by giving a brief historical overview on it and secondly by explaining the current status of indigenous peoples’ language rights in Brazil, considering the concepts of indigenous multicultural and dualism.

## 2.1 Indigenous peoples' language rights in Brazil: a sociological perspective

In this paragraph I will look at indigenous peoples' language rights in Brazil from a sociological perspective in order to give a complete view on what is related to indigenous peoples. To do so, I have considered Benedict Anderson's and Kymlicka's works which are extremely influential on what concerns indigenous peoples' rights in general.

### 2.1.1 Role of languages in the origin of national consciousness

In this paragraph I will introduce the concept of national consciousness as it is fundamental to describe the nature of indigenous peoples' rights. To do so, I have looked at Anderson's and Kymlicka's ideas.

As Anderson (1991:42) points out, "the old administrative languages were *just that*: languages used by and for officialdoms for their own inner convenience" adding that 'for whatever superhuman feats capitalism was capable of, it found in death and languages two tenacious adversaries'. Focusing specifically on the case of Brazil, the Irish scholar (1991:46) argues:

[...] it is necessary to turn to the large cluster of new political entities that sprang up in the Western hemisphere between 1776 and 1838, all of which self-consciously defined themselves as nations, and, with the interesting exception of Brazil, as (non-dynastic) republics'.

In order to push the analysis further, I have found these ideas particularly meaningful:

[...] the growth of creole communities, mainly in the Americas, but also in parts of Asia and Africa, led inevitably to the appearance of Eurasians, Euraficans, as well as Euramericans, not as occasional curiosities but as visible social groups. Their emergence permitted a style of thinking to flourish which foreshadows modern racism. Portugal, earliest of Europe's planetary conquerors, provides an apt illustration of this point. In the last decade of the fifteenth century Dom Manuel I could still 'solve' his 'Jewish question' by mass, forcible *conversion* – possibly the last European ruler to find this solution both satisfactory and 'natural'. (ibid 1991:42)

This quote is particularly meaningful because it explains what happens in Brazil; Dom Manuel I forced the natives to convert to Catholicism, those rejecting baptism were

expelled<sup>11</sup>. As for the question of language, ‘the new states of the post-World War II period have their own character’. In doing so ‘one way of underlining this ancestry is to remind ourselves that a very large number of these (mainly non-European) nations came to have European languages-of-state’ [...] because the European languages they employed were the legacy of imperialist official nationalism (ibid:114). Anderson then goes on stating that this is the reason why so often in the ‘nation-building’ policies one sees both a genuine, popular nationalist enthusiasm and a systematic [...] instilling of nationalist ideology through the mass media, the educational system, administrative regulations, and so forth. Anyway, the most interesting passage is the following one (ibid:114):

In an age when it is so common for progressive, cosmopolitan intellectuals (particularly in Europe?) to insist on the near-pathological character of nationalism, its roots in fear and hatred of the Other, and its affinities with racism, it is useful to remind ourselves that nations inspire love, and often profoundly self-sacrificing love.

Anderson (ibid:143) calls this ‘political love’ which can also be seen in the ways ‘languages describe its object’. For instance, in the vocabulary of kinship like *motherland*, *Vaterland*, and *patria* or in that of home as, for example, *heimat* or *tanah air* which mean earth and water, in the Indonesians’ native archipelago. So, as Anderson explains, ‘both idioms denote something to which one is naturally tied’ (ibid:143). The scholar then makes another extremely meaningful passage which has to be reported:

[...]in everything ‘natural’ there is always something unchosen. In this way, nation-ness is assimilated to skin-colour, gender, parentage and birth-era – all those things one can not help. [...] precisely because such ties are not chosen, they have about them a halo of disinterestedness.

In other words, Anderson underlines the primordial state of languages; the fact that no one can give the date of birth of any language as ‘languages thus appear rooted beyond almost anything else in contemporary society’ (ibid:144-145). Anderson then points out that even the most insular nations accept the principle of *naturalization*, no matter how difficult they may find its practice because ‘from the start the nation was conceived in language, not in blood, and that one could be ‘invited into’ the imagined community’. So,

---

<sup>11</sup> See <https://www.britannica.com/biography/Manuel-I> last access: 07/02/2018



it could be stated that, following Anderson's ideas, a community could be imagined through language (ibid:146).

### **2.2.2 Definition of social justice and sense of community**

Social justice is a concept that is considered fundamental when discussing language rights. As a matter of fact, Kymlicka (2001:134) states that the situation of indigenous peoples raises a number of important questions about the presuppositions of both domestic and international justice. Some examples are the relationship between the claims of individuals, communities and states; the nature of sovereignty; the accommodation of cultural differences. In order to better understand this concept, the scholar illustrates the example of Bangladesh and of the government of Indonesia. Indeed, in these cases, states are slowly being overrun by settlers, thus becoming a minority in their own homeland. However, this has led to the creation of indigenous communities, who claim a right to control their traditional homelands and to exclude others from that land. Interestingly, he also illustrates the example of the government of Brazil, now partly retracted under international pressure for what regards peoples settled in Amazonia. A more intensive population and cultivation of frontier land would promote a more equitable distribution of resources and ensure a better life for more people. However, the extent of the depopulation varies (ibid:135) from case to case, as does the culpability of those who are now being encouraged to settle in indigenous homelands. In addition, he comes to what he calls an 'awkward dilemma', because the situation is as follows:

desperately poor people from the heartland, who may themselves be migrants from other areas, cannot be said to be responsible for, or the beneficiaries of, acts of genocide committed against indigenous peoples.

Kymlicka then defines what is an awkward dilemma regarding indigenous languages and lands:

For those of us who believe both in resource egalitarianism and in the rights of indigenous peoples, this justice-based argument for settling indigenous lands creates an awkward dilemma. Resource egalitarianism insists that there are some limits on the size of the resources that any group can claim limits to the size of the benefits they can demand or

withhold from others. Are the rights demanded by indigenous peoples therefore inconsistent with an egalitarian view of social justice?

Following Kymlicka's (ibid:142) ideas, it could be argued that indigenous peoples' communities are small groups of peoples and since collective action is only possible in smaller groups, to be a member of these groups could give an authentic sense of belonging and participation. For all these reasons, these communities need to be protected from 'being undermined by economic or political pressure from the large city – e.g. by reducing the constant pressure in a capitalist society for people to migrate from one region to another for economic reasons, thereby undermining the sense of local community'. The point here is that only smaller communities own this sense of belonging or, in better words, this sense of community; thus, communities need to be preserved.

In order to cultivate a strong sense of community, it is also important to remind that the decentralization of power needs to be avoided. Indeed, as Kymlicka says (ibid:142), 'too much decentralization of power may result, not in empowering of smaller communities, but simply in leaving everyone powerless in the face of global economic and political trends'. Moreover, the scholar states that the decentralist argument 'can't explain why these powers and resources are distributed differentially amongst smaller communities', as is implicit in the claims of indigenous peoples:

[...] the greatest support for these policies often comes from outside Brazil, from the international community which pressures the Brazilian government to adopt them.

This 'democratic deficit' has made it virtually impossible for the federal government to act out its policies. Decentralization would make it even more difficult to ensure respect for indigenous rights. What indigenous peoples demand is not a general decentralization, but rather that political boundaries be redrawn, based on ethnic criteria, to give them a self-governing enclave. As the idea of many countries is that indigenous peoples are 'nations', they fear that this might promote secessionism. For this reason, it is fundamental to maintain social unity and stability at a local level in order to see it at a national level. What Kymlicka (ibid:151) reminds us is that we need to know how to maintain this social unity and stability. To conclude this section dedicated to the importance of the sense of community, I will quote the following passage by Kymlicka as it is particularly meaningful:

What is clear is that we must develop an approach to justice that is sensitive to community. Neither mainstream conceptions of social justice nor the more recent environmentalist theories have tackled the many dilemmas raised in this area. We need a theory which requires the First World to help Third World countries develop, but which does so in a way that does not undermine either the environment or indigenous cultures. In short, we need a theory that combines a commitment to international (and intercultural) redistribution, environmental protection, and respect for cultural difference.

In order to better explain indigenism in sociological terms, I have found the article written by Adalberto Fernandes Sá Junior and Gislene Aparecida dos Santos (2017) particularly useful. This article explains how the State should treat indigenous peoples given that all citizens are worthy of equal consideration and respect. Because of that, I will now analyze Tully's (1997) ideas (postcolonial). He affirmed the importance of a constant dialogue between different cultures because 'um diálogo contínuo entre as diversas culturas, mediado pelas convenções do mútuo reconhecimento, do consentimento e da continuidade' (Sá Junior-Dos Santos 2017:2545). In addition to that, it is important to consider that 'a aceitação dos valores liberais pelos povos indígenas para que eles sejam protegidos da sociedade majoritária' (ibid:2546). Summing up Taylor, Tully and Kymlicka's ideas, Sá Junior-Dos Santos affirms that 'a identidade de todo e qualquer indivíduo é culturalmente constituída, razão pela qual não há verdadeira contradição entre liberdade e cultura' (2017:2557) and that 'a linguagem é o próprio modo de ser do sujeito no mundo'. In this regard, it could be affirmed that language is deeply connected to identity. Focusing specifically on the context of language rights and their law regulating languages, these words are particularly significant:

[a] linguagem constitui, ainda a forma como o indivíduo compreende a si mesmo e o seu entorno, deve-se garantir a todos, durante as negociações, o direito de se expressar na sua própria língua. Assim, cada negociador deve participar do debate fazendo uso do seu próprio modo de ser no mundo (ibid:2559).

### **2.3 The importance of preserving indigenous languages**

In this paragraph I will explain why it is important to preserve indigenous languages; to do so, I have used specific UN documents: the 2008 report of OHCHR (High Commissioner for Human Rights), the UNDRIP (Universal Declaration on The

Rights of Indigenous Peoples), and the 2012 Expert Mechanism Submission on the rights of indigenous peoples.

The 2008 report of OHCHR<sup>12</sup> (Office of the High Commissioner for Human Rights) provides a deep analysis of the international legal framework for the protection of indigenous languages in particular. Moreover, it provides examples of the work of the human rights system on the protection of the use of indigenous languages. Finally, it contains a summary of major recommendations and steps for the protection of the use of indigenous languages. The report states the importance of the UNESCO Universal Declaration On Cultural Diversity, 2001, art. 5 which states ‘the protection of cultural diversity is an integral part of human rights and a *sine qua non* condition for the full realization and enjoyment of all human rights. More importantly this report states:

“from an approximate number of 6700 languages that are believed to exist today, over 3000 are in serious danger of disappearance. Indigenous peoples’ languages represent at least 4000 languages of the world’s linguistic diversity and most of the indigenous languages belong nowadays to the category of languages seriously endangered”.

The aim of the OHCHR office is to eliminate discrimination against the current use of indigenous languages. Also, the importance of preserving indigenous languages is the “basis of identification for an ethnicity, as a repository of knowledge of history, myths and legends” (report p10). Moreover, the report stresses the importance to establish a project on indigenous languages and cultures in education systems. The reason for this is that “reactivating intercultural dialogue and promoting tolerance towards diversity was strongly recommended to UNESCO, and other UN agencies were also invited to consider this proposal”. The questions that the report (p. 11) arose were whether the current legal framework was sufficient to protect indigenous languages, in particular those seriously endangered. Another important issue was how to avoid discrimination towards the use of minority and/or indigenous languages when there are no clear policies on bilingual education in order to favor the access of vulnerable groups to education opportunities.

Another document that I have examined to better explain indigenous peoples’ language rights is the report on the Expert mechanism on the Rights of Indigenous People: “Study on the role of languages and cultures in the promotion and protection of the rights

---

<sup>12</sup> See [http://www.un.org/esa/socdev/unpfii/documents/EGM\\_IL\\_OHCHR.doc](http://www.un.org/esa/socdev/unpfii/documents/EGM_IL_OHCHR.doc).

and identity of indigenous peoples”. In 2012, the Expert Mechanism participated in decision-making not least because indigenous people have the right to participate in decision-making that impacts on their languages, cultures and language and cultural rights (p4).

Art. 13 of the UNDRIP underlines the rights to revitalize, use, develop and transmit to future generations their histories, language and oral traditions, philosophies, writing systems and literatures. Whereas arts. 14 and 15 states the rights to control their own education systems and institutions in order to provide education in their own languages. Once again, as I have stated in the first chapter, the right of self-determination is the most relevant right, as this document reports at page 5:

Central to all of these rights is indigenous peoples’ right to self-determination, which includes indigenous peoples’ rights to freely determine their cultural development, to autonomy and to participate fully, if they so choose, in the political, economic, social and cultural life of the State (arts. 3, 4 and 5).

However, language rights are dealt with a number of other human rights instruments such as the Universal Declaration on Human Rights and the United Nations human rights treaties.

Languages can facilitate the practice of indigenous peoples’ self-determination because “they contain within them the tools to express indigenous collective juridical and political methodology and organization. In many cases, indigenous peoples have maintained their traditions orally, embedded in their languages. As few submissions to the Expert Mechanism stated, indigenous peoples’ control over their languages can be a tool in their decolonization” (p.7-8). So, the recognition of the close connection between indigenous peoples’ cultural and language rights and their lands, territories and resources is necessary for the preservation of indigenous peoples’ rights. Interestingly, the report states the fact that indigenous peoples’ communities have frequently faced additional challenges in order to have their rights to their land, territories and resources recognized, which has adversely impacted on their ability to practise, protect and promote their languages and cultures:

indigenous peoples have the right under article 14 [of the UNDRIP cfr.] to establish institutions providing education in their own languages. Moreover, article 16 states that “indigenous peoples have the right to establish their own media in their own languages” and that States “shall take effective measures to ensure that State-owned media duly

reflect indigenous cultural diversity.” Also, States “should encourage privately owned media to adequately reflect indigenous cultural diversity”

In addition, indigenous peoples’ histories and their development are fundamental markers of indigenous peoples’ cohesiveness to build and create the sense of community. However, as the core of chapter three of this thesis shows, small indigenous groups and all those that are recognized as indigenous peoples, do face a number of challenges to promote, revitalize and keep their languages (ibid:10).

Getting to the purpose of my thesis, it should be noted that, to use the words of Ruiz (1984) cited by Hornberger (1998:439), I am using a “language as resource” perspective. This view is fundamental to the vision of language policy, language education and language rights that I have presented here and, more importantly, this is “not a static or conflict-free vision of languages as resource, but a negotiative, transformative one”. This perspective will be used in the third chapter in order to define the importance of language education regarding the case of Guaranì.

## **2.4 Indigenous peoples’ rights in Brazil**

### **2.4.1 Historical overview on language rights**

In South America there are two models of rights. The first one recognizes indigenous peoples’ rights as a collective right, whereas the second recognizes the ethnic identity and a number of specific rights for indigenous peoples. The Brazilian constitution stands somewhere between the two models. Latin American constitutions are considered the world’s most advanced when it comes to indigenous peoples’ rights (Lanni 2011:68). In addition to this, Brazil is an extremely interesting case for a number of reasons.

Firstly, the 1988 constitution breaks with the past, which was marked by the repression of rights. It is therefore important to consider this because it represents a connection with the democratization process and the equality principle (Poggeschi 2012:315-316). According to the Italian scholar, the constitutional legislator feels at fault while writing the constitution and this is evident in the Brazilian constitution. However,

Poggeschi also argues that the question of indigenous peoples and the slavery are clear evidence of the violations of human rights during Brazilian history and in the American continent in general. Secondly, as McDowell Santos (2016:175) notes, the republic (proclaimed in 1889) continued the assimilation of the indigenous peoples on positivist and evolutionist principles of “progress” (Melatti, 2007:252). Its settlement program was one of national expansion and integration of the indigenous peoples into the national workforce. Indeed, in 1910, the federal government organized the Serviço de Proteção aos Índios e Localização de Trabalhadores Nacionais (Indian Protection and National Manpower Distribution Service—SPI). The creation of this agency meant the establishment of an official indigenous policy and the apparatus to carry it out (Lima, 1998).

Hamel’s work in Skutnabb-Kangas & Phillipson (1994) is a good introduction for what concerns indigenous peoples’ rights. According to Hamel in Skutnabb-Kangas & Phillipson (1994:279), Brazil is a typical representation of those countries that combined genocide with segregation and paternalistic tutelage in the past (cf. Ribeiro 1970) . As a result, this led to a reduction of the indigenous population from 5 million (at the time of the colonization) to 200.000 today. Hamel interestingly raises the following question “what would be the minimal legal framework necessary to render the ethnic survival of Indian peoples possible?” (ibid:298). In answering this question, the scholar states that there is not a single possibility, given the diversity of situations, traditions, numbers and density of population, degrees of acculturation or ethnolinguistic vitality (ibid:299). Hamel (1994:300) concludes its analysis by saying that “the recognition of Indian minority rights, including linguistic human rights, will only be successful in the long run as part of the developing Indian movements, their gains in ethnic and political awareness, and their capacity to struggle for ethnic survival”.

In order to compel the analysis further, I will now introduce the case of Brazil considering indigenous peoples’ rights in general. According to the Brazilian law, ‘*indio*’ simply identifies one category of all the native inhabitants of the New World. This term is used for all the pre-hispanic population without any distinction between them (Lanni 2011:23). In order to better understand the founding principles of the Brazilian constitution, it is useful to be reminded that, in the last two decades, indigenous peoples’ rights have been *recognized*, not just *protected*. In simple words, the recognition of

indigenous peoples' rights means contributing to their full integration in the society whereas the protection means putting them in a low status (Lanni 2001:31). Historically, the organization of the Portuguese area of the New World was inspired by a centralized model that was different from the Spanish one. The area was divided into 15 hereditary *capitanías*, for which every donee received directly administrative, jurisdictional and legislative powers (Lanni 2011:36).

The Portuguese law was in force in the Brazilian *capitanías*. There were three big *ordenação* of Portugal: *Ordenações Alfonsinas* (1466), *Ordenações Manuelinas* (1521) e *Ordenações Filipinas* (1603). The Portuguese law was the only source of the legislation applied to the Brazilian colony. The problem of the relationship between the custom law and the religious-juridical organization of the indigenous peoples is that it was originally perceived as marginal and ignored. The *Ordenações Filipinas* were important because they remained in force for a long period of time. For instance, the norms belonging to the civil law remained into force until 1916, year of application of the *codigo Beviláqua*, the first Brazilian civil code. The *Lei dos índios* of 1570 regulated the discipline of the controlled slavery. The Jesuits had a central role for what concerned the genocide of indigenous peoples even if the history of Brazilian indigenous peoples' rights was unknown, just as the Hispanic one (Lanni 2011:37). In the Estatudo do Índio (Indian Statute), the 1934 Constitution established that indigenous lands belonged to the federal government and that the Indians had a right to such lands as they already effectively occupied them. (Mc Dowell Santos:176). McDowell Santos (2016:177) states that in the 1980s and 1990s, "the new situation created by the growth of movements for indigenous rights and for a return to political democracy opened the way for change in the laws and policies relating to the indigenous peoples in the various countries of Latin America, which began to move from ideas of assimilation to the recognition, at least rhetorically, of ethnic differences and cultural diversity". Also, constitutional reforms began to recognize in principle "the multi-ethnic and pluricultural nature of those societies" (Sieder, 2002: 4; see also Van Cott, 2002) and a new "multicultural indigenism". (Peña, 2005).

The Brazilian constitution, in force until 1988, contained various articles and a special statute called Estatudo do Índio (Hamel 1994:295). In this Estatuto, indigenous individuals were classified as "isolates", "on the way to integration" or "integrated".



According to article 6 of the Brazilian civil code, non-“integrated” Indians are those with an intellectual and social capacity comparable to minors between 16 and 21 years old who need a legal tutor. However, year 1988 could be seen as a turning point for the Brazilian constitution. That is despite the fact that the Brazilian legislation on indigenous peoples’ rights, from the first discovery to the 1988 constitution, was aimed to the integration (De Souza Filho in Lanni 2011:170):

«...se tente a sua civilização para que gozem dos bens permanentes de uma sociedade pacífica e doce» (1808); «... despertar-lhes o desejo do trato social» (1845); «...até a sua incorporação à sociedade civilizada» (1928); «incorporação à comunhão nacional» (1934, 1946, 1967, 1969); «...integrá-los, progressiva e harmoniosamente, à comunhão nacional» (1973).

So, the 1988 Brazilian constitution was the first constitution to break the integrationist tradition of the continents ensuring to *indios* the right to continue to be *indios* (De Souza Filho in Lanni 2011:172). The national state recognizes the right to continue to be *indio* realizing the ancient Ecuadorian saying: “*puedo ser lo que eres sin dejar de ser lo que soy*” (De Souza Filho in Lanni 2011:172).

#### **2.4.2 Indigenous peoples’ rights in Brazil today**

Currently, the constitutions of the Latin American states refer to indigenous rights and to the recognition of the multicultural aspect of the respective nations. However, the Brazilian constitution brought some changes, as it has been said before. The past constitutions, when dealing with the indigenous question, recognized just the language or the culture but not the hearth and territoriality, whereas the post-1988 constitutions elaborate on green issues and mainly on the rights for indigenous people to continue to be *indio*, without considering the citizenship that was offered to them (De Souza Filho in Lanni 2011:175). The 1988 constitution is regarded by scholars a turning point for Brazilian law: demographic data on indigenous population in Brazil are not accurate, still FUNAI (*Fundação Nacional do Índio*), ISA (*Instituto Socioambiental*) and CIMI (*Conselho Indigenista Missionário*) consider 220 different populations, 180 languages and a population between 350 and 660.000 people according to ISA (year 2000-2005). According to IBGE (*Instituto Brasileiro de Geografia e Estatística*) in 2000 there were a million of indigenous peoples (De Souza Filho 2011:176).

These data do not consider *indios* who live in villages and single inhabitants of the city. In addition, in Brazil there are from 3 to 5 million inhabitants called *islados*, which means without any contact with the actual population. In Sá Junior & dos Santos (2546:2017) there are FUNAI's 2017 data:

Segundo a Fundação Nacional do Índio (FUNAI) (2017), com base em dados do censo demográfico realizado pelo Instituto Brasileiro de Geografia e Estatística (IBGE) em 2010, a população indígena brasileira é de 817.963 indígenas (o que corresponde a apenas 0,44% da população brasileira), dos quais 502.783 vivem na zona rural e 315.180, nas zonas urbanas, espalhados por todos os Estados da Federação. Há também o registro de 69 referências de indígenas não contatados, além de grupos em busca de reconhecimento da sua condição de indígena junto ao órgão federal supracitado. São 305 povos indígenas, falantes de 274 línguas diferentes (17,5% da população indígena não fala português).

In all indigenous peoples' area there is a magical relation between the peoples' knowledge and nature; this relation regards the mystical component of the space but also that one linked to communication. Many indigenous peoples' in Brazil seem not to feel this sacred dimension of connection with the Earth. For example, there are many communities, such as *Guaraní* in the South of *Mato Grosso do Sul*, that did not have the possibility to feel this close relationship with the space because their lands were confiscated at the beginning of the XX century (*ibid*:183-184). De Souza also points out that in Brazil the hunting of wild animals is forbidden. It does not apply to indigenous peoples as long as they devote themselves to hunting in compliance with their customs and traditions. In this case it is not an exception because it is the constitution that foresees it (De Souza Filho *ibid*:184). Something that proved to be extremely difficult was the preservation of 180 languages, a few compared to the 1.300 that linguists affirm to be spoken in Brazil when the Portuguese arrived (Poggeschi 2011:316-317). On one hand, a source of optimism is the demographic growth of indigenous peoples in Brazil. On the other hand, a reason for concern are those programs created for economic development that would harm life conditions of Brazilian *indios* such as the Plano de Aceleração do Crescimento (PAC). Preserving indigenous peoples today is considered difficult mainly for the economic situation of Brazil. Poggeschi argues that today indigenous peoples' privileges are just a small compensation of the wrongs committed for many centuries. R.N. dos Anjos Filhos (2008:8) makes an interesting point for what concerns indigenous peoples' rights:

O texto brasileiro atual se alinha ao sistema internacional de proteção aos direitos humanos, que nas últimas décadas buscou assegurar a igualdade material a partir de uma visão de justiça que exige não só a redistribuição econômica, mas também o reconhecimento das identidades. Importante deixar claro, assim, que o direito constitucional indigenista brasileiro encerra normas que possuem natureza de *direitos fundamentais*. [...] *O que importa para se atestar a fundamentalidade de um direito é a sua imprescindibilidade à realização da dignidade humana. E a dignidade das pessoas que compõem os povos indígenas depende diretamente da satisfação dos direitos que a Constituição lhe confere. (...)*”

What is also interesting about Brazil is its multicultural indigenism, which grew in the 1980s during neoliberalism and the growth of indigenous movements in the region (Peña, 2005). This was possible thanks to a return to democracy and increasing acceptance and formal ratification of international norms of human rights, including norms for the human rights of indigenous peoples (McDowell Santos 2016:174). According to Boaventura de Sousa Santos (2003; 2006), McDowell Santos (2016:176), “political changes at the national level and globalization have both contributed to the appearance of new forms of legal pluralism at the subnational and supranational levels” with different legal traditions and practices operating with “relative autonomy” and, despite their frequent contradictions, increasingly impacting one another, creating “legal hybrids”. As Santos (2006:44) states, “Under often contradictory pressures, the different sectors of state action are assuming such different logics of development and rhythms, causing disconnections and incongruities, that sometimes it is no longer possible to identify a coherent pattern of state action, a pattern common to all state sectors or fields of state actions”. As again McDowell Santos (2016:175) states, Brazilian history is characterized by what Warren (2001) calls “Indian exorcism”: the physical and cultural extermination of the indigenous peoples by mass killings by the army, enslavement, expropriation of their land and religious missions to convert them to Christianity, and policies aimed at their assimilation.

The prevalence of a legal and political culture of indigenism shaped by an individualist and colonial outlook is a prominent issue in Brazil. It is a serious issue, yet merely one among many others, such as the implementation of the new constitutional provisions on the rights of indigenous peoples from a multicultural perspective. In Brazil, the population that identifies itself as indigenous is less than 0.5 percent, but mass protests by indigenous peoples during the 1980s had some important legal successes. As

McDowell Santos (2016:180) stresses, the 1988 Constitution started to incorporate international standards and norms of human rights once it was established that the state must adopt the principle that “human rights take overriding precedence” (as stated by Article 4, Paragraph 2). Indeed, Brazil only ratified Convention 169 after more than 10 years later, in 2002, the last year of the Cardoso presidency. The first National Program of Human Rights was created in 1996 and it implemented various targets. These included formulating a new policy towards indigenous peoples “to replace assimilationist policies and those treating Indians as in need of handouts and guardianship,” “to support revision of the Indian Statute,” and “to provide the FUNAI with sufficient resources to carry out its mission of defending the rights of the indigenous societies, particularly in the process of demarcating their lands” (Presidência da República, 1996: 31–33). In 2007, a national department of Human Rights was created by Cardoso. However, it became a major agency of the state only thanks to President Luiz Inácio “Lula” da Silva (2003–2006), when it was renamed the Secretaria Especial de Direitos Humanos (Special Secretariat of Human Rights—SEDH) by Law 10,683 of 2003. As Molinero (2006: 175) points out:

“This kind of recognition of indigenous rights does not mean a (re)constitution of the state, a revision of the structures that consolidate and perpetuate discrimination and subordination; on the contrary, it implies an effort to keep indigenous peoples’ identities tied to a structure that is incapable of recognizing pluralism and multiculturalism.”

The IACHR (Inter American Commission on Human Rights)<sup>13</sup> is the principal organ of the “OAS” (Organization of American States) and its mission is to promote and protect human rights in the American continent. Therefore, it is an important organism for what concerns the preservation of indigenous peoples’ language rights in South America. As reported in its official website, the IACHR was created by the OAS in 1959 and its headquarters are in Washington, D.C. The commission was installed in 1979 and it is part of the institutions within the inter-American system for the protection of human rights (“IAHRS”). The first formal act of the IAHRs was the approval of the American Declaration of the Rights and Duties of Man during the Ninth International Conference of American States in 1948. One of the principles upon which the Organization was

---

<sup>13</sup> See [https://: www.oas.org](https://www.oas.org)

founded is the “fundamental rights of the individual”. The Charter establishes that IACHR is one of the principal organs of the OAS, whose main function is to “promote the observance and protection of human rights”. The IACHR has three main pillars: the individual petition system, monitoring the human rights situation in Member States and the attention devoted to priority thematic areas. Specifically, the IACHR was created in 1959 and had its first session in 1960. As the official website states:

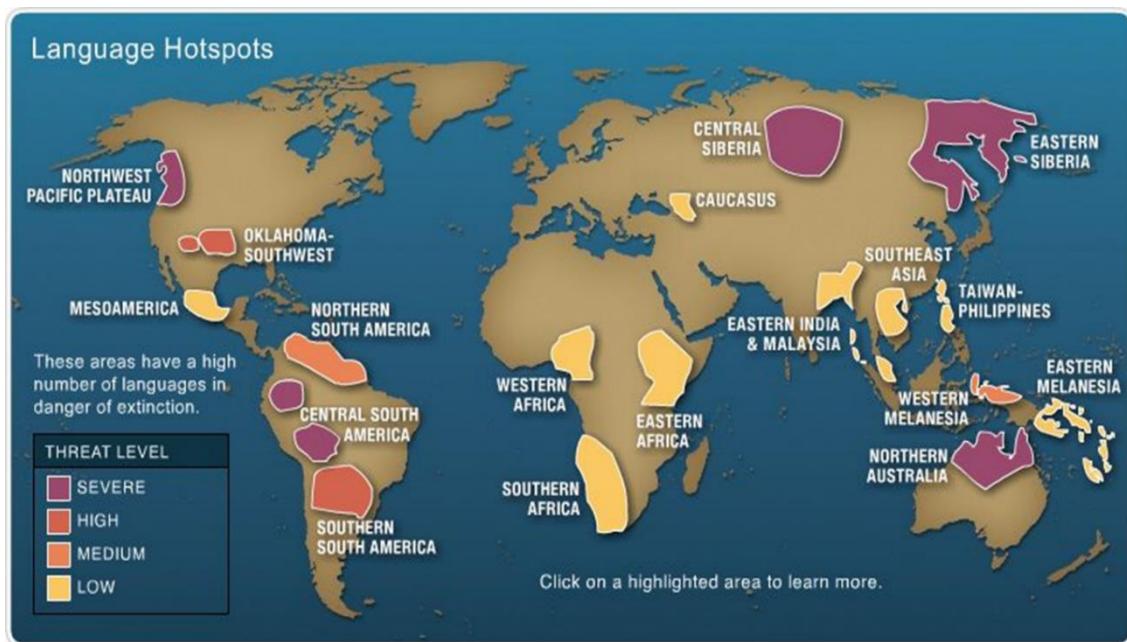
“by 1961, the IACHR had begun to carry out on-site visits to observe the general human rights situation in a country or to investigate specific situations. [...] the IACHR has carried out 69 visits to 23 member States. In relation to its visits for the observation of the general human rights situation of a country, the IACHR has published 44 special country reports to date”.

The IACHR has authorized complaints or petitions regarding specific cases of human rights violations. In 1969, the American Convention on Human rights was adopted and it entered into force in 1978. It has been ratified by 25 countries: Argentina, Barbados, Brazil, Bolivia, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela. To illustrate an example of what IACHR actually does, there is a case found in Mc Dowell Santos (2007:40). This case concerns the violation of the human rights of indigenous population of Yanomamis:

“It was initiated in 1980 and ended in 1985, within the context of democratization. The petitioners were representatives of anthropological associations and indigenous rights NGOs based in the United States. The IACHR recognized the “important measures taken by the Government of Brazil, particularly since 1983, to protect the security, health and integrity of the Yanomami Indians”.<sup>54</sup> At the same time, the IACHR recommended that the government continue to take these measures, proceed to demarcate the boundaries of the Yamomami Park and consult with the indigenous population to establish social programs in the park. This case shows that both the IACHR and the Brazilian government had begun to take human rights violations more seriously. Yet, since the 1980s, the State has not always responded to the communications sent by the IACHR and, though advocating the protection of human rights, has acted in contradictory ways”.

### 2.4.3 Indigenous peoples' language rights in Brazil

Coming to the core of my thesis, I will now focus on language rights; these rights have been created for indigenous peoples in order to make them follow national instructions and receive *alphabetization* in the indigenous languages. Indeed, education 'should be geared' towards gradual "integration", respecting cultural heritage, artistic values, religions, beliefs, and rites (Stavenhagen 1983<sup>a</sup>:249). After many years of military rule, as mentioned in the previous paragraph, changes occurred thanks to the new constitution of 1988; these changes have been fundamental for indigenous peoples' language rights. To give a better idea of language rights in Brazil, I will firstly introduce these rights in Latin America. The following map illustrates which languages are in danger of disappearance.



( source: <https://anthropologynet.files.wordpress.com/2007/09/language-extinction-hotspot.jpg>)

De Varennes (2012:13) says that the very fast rate of disappearance of indigenous languages seems to have 'emerged following Europe's colonial conquests more than 400 years ago'; consequently, there was a sharp decline in linguistic diversity. There was also a 'continued refusal' of state authorities of the world to use indigenous languages during their several encounters with indigenous communities (De Varennes 2012:2):

And yet, language has an tremendously important role as both gatekeeper and doorway: indigenous peoples may be excluded or disadvantaged where a government limits or refuses to allow the use of an indigenous languages within the institutions of the state and

relations with the public, or a doorway can be opened in both education and advancement when the use of an indigenous language can serve to empower members of indigenous communities.

In Latin America, most indigenous language ‘moved from an initial position of favour [...] to an increasingly repressive situation’ especially at the end of the 18<sup>th</sup> century in most European colonies, from the North to the South (De Varennes 2012:6). De Varennes (2012:6) states that initially, in Brazil, Tupí language was used as a lingua franca in their colonies and this linguistic compromise was gradually replaced by mere toleration of indigenous languages until the 18<sup>th</sup> century, when it was finally suppressed. Speaking about Guaraní language in Paraguay, “despite some occasional repressive measures as illustrated later in this submission, [Guaraní] was allowed to be used and somewhat protected by the state into the modern era, thanks in part to the early efforts of Jesuit missionaries”. However, from mid to early nineteenth century, indigenous languages were completely set aside by authorities (De Varennes 2012: 6): “Castilian becoming the official language of Latin American countries (except Brazil), and English the language of administration and government in North America, with a few enclaves for the French language”. In the Americas, Asia, Oceania and Africa, the centralisation process brought by colonization often imposed through one of the European language, was ‘especially and extremely detrimental’ (De Varennes 2012:7). The scholar continues the historical analysis by saying that “most of the political, economic and even cultural levers of authority and control came increasingly into the hands of European elites, especially where these represented a significant or proportion of the population of a colony or newly independent state”. Also, following Neville’s ideas (1989:17-20) the Canadian scholar (ibid:9) adds that:

[In] many cases, colonial languages such as English, French, Spanish and Portuguese and associated cultural traits acquired an economic and social value that was treasured above all else, while the languages and many of the cultural traits of indigenous peoples were devalued and often despised.

Various methods were widely used by state authorities in countries all over the world to mould individuals belonging to minorities and indigenous peoples into the new colonial or national identity. As a part of this process, states intervened more and more directly into what had previously been community-oriented activities, including education. More

specifically, regarding education, in order to mould individuals into the new colonial identity, the government banished Guaraní from schools in 1812:

“In school the use of Guaraní in class hours was prohibited. To enforce this rule, teachers distributed to monitors bronze rings which were given to anyone found conversing in Guaraní... [On] Saturday, return of the rings was requested and each one caught with a ring was punished with four or five lashes”.

De Varennes (2012:17) concludes his analysis by saying that the trend of the last three decades did not bring a significant change as “in practice the languages and cultures of indigenous peoples continue to be disregarded, at times creating conditions of frustration and even anger”. To avoid this, article 28 of the ILO Convention states:

1. Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong. When this is not practicable, the competent authorities shall undertake consultations with these peoples with a view to the adoption of measures to achieve this objective.
2. Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country.
3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned.

Indigenous peoples may still be required to learn the official or majority language of the state in which they live, and they are no longer to be forced to abandon their own language and culture (ibid:20). More interestingly, De Varennes suggests that “the state could be obligated to assist indigenous peoples in correcting past injustice and practices which amount to “cultural” genocide” (ibid:22). In addition, De Varennes looks at the potential of indigenous languages being languages of ‘progress’ and opportunities’ (ibid:32). Unfortunately, the scholar argues that most indigenous children are in danger as “study after study confirm that indigenous children almost universally have among the highest dropout rates and the poorest academic results” (ibid:29). However, language education will be better analysed in the third chapter. Currently, many scholars argue that phrases like “endangered languages” and “linguicism” are used to describe the “plight of the world’s vanishing linguistic resources” during their several encounters with the phenomenal growth of world languages such as English (Hornberger 1998:439).

Hamel continues his historical overview on indigenous languages by stating that ‘by 1980, only 5 language groups out of 170 received specific education by state agencies’. In this regard, Catholic missions have been fundamental because they ‘set up local



projects that ranged from submersion programmes to fully bilingual programmes with L1 instruction'. In addition, several non governmental organizations set up education projects and provided teaching materials and experimental programmes (Hamel 1994:279). A real turning point was the Constitution in 1988 since it carried out important gains for indigenous peoples' language rights. Indeed, Hamel (ibid:279) emphasises the fact that Article 210 of the Brazilian constitution concerns public education and article 52 is called "Diretrizes e Bases da Educação Nacional":

'[...] demand bilingual and intercultural education for Indian peoples that helps to foster Indian social organization, cultures, customs, languages, beliefs, and traditions. Programmes should strengthen the sociocultural use of mother tongues and elaborate specific methods for L1 and L2 teaching. Teacher training for Indian staff, flexible curricula, evaluation programmes and procedures, as well as differentiated teaching materials and time-tables according to agricultural cycles, etc. are also on the agenda'

However, the legal protection of indigenous peoples 'did not prevent the dominant society from committing acts of genocide over many years'. Interestingly, Hamel (1994:283) points out, in comparing Mexico and Brazil, that indigenous communities in Brazil remain separated from the nation; this explains why it seems somewhat easier in Brazil than in Mexico (or Peru, Bolivia and Ecuador) 'to obtain a certain autonomy in education concerning cultural content, methods, and language.

"Ever since colonization Brazil has applied a policy that combined elements of segregation with those of – at least potential – assimilation, if the Indian peoples or individuals were willing to give up their ethnic identity. As a matter of fact, the overall result was genocide and extreme fragmentation of indigenous peoples. The 200,000 Amerindians that have survived are subdivided into 170 language groups" (Hamel 1994:295).

In doing so, the constitutional principles of paternalism and tutelage rooted in the 19th century Brazilian Indigenist policy and legislation. In this regard, a special statute was used to both segregate and protect indigenous peoples from the mainstream society.

Hamel (ibid:297) then points out that 'Brazilian legislation and practice implicitly assume that Portuguese' is the national language. Looking at the history of Indian movements in Latin America, Hamel notes that it reveals that language rights are central and more relevant among the minority rights. This is due to their 'intrinsically collective nature and their close interdependence with other rights of a collective character':

‘Whether favourable conditions for language maintenance and ethnolinguistic revitalization obtain will depend on the role indigenous movements assign to their languages as central or peripheral elements of ethnic identity, and as tools for organization and action’.

#### **2.4.4 Brazilian Dualism**

In order to define Brazilian dualism, the words of De Souza Filho in Lanni 2011 (p.12) are meaningful. Here, the *índios* are subject both to indigenous traditions and to the nation’s state law. The Brazilian constitution recognizes «direitos originários» of indigenous peoples’ law not «derechos fundamentales» as happens, for example, to the Colombian constitution (De Souza Filho in Lanni 2011:194). The constitution did not create an indigenous jurisdiction, but it has recognized the existence of indigenous communities; in doing so, there has been a coordination with the nation state system. This is what is considered to be Brazilian dualism, which can be defined with the words of Hamel (1994:299): “the clear-cut dualism of ethnic boundaries between the Indian and non-Indian society in Brazil may help to mobilize the principle of personality as a resource as well”. Also, the words of McDowell Santos are useful to better understand this phenomenon:

on the one hand we encounter a colonial and individualistic conception of their civil rights, embedded in some of the country’s laws and the behaviour of state agents, while on the other some norms and some sectors of the state are introducing a multicultural and collectivist approach to those rights (McDowell Santos 2016)

So, it could be stated that, on one hand, we see *an individualistic and colonial approach to indigenous* and, on the other hand, a collectivist and multicultural perspective on the human rights of indigenous peoples (McDowell Santos 2016:172). Indigenous peoples “cannot be separated from their collective right to their land which is framed in terms of social, economic, and cultural rights” (ibid:173). In other words, it could be argued that there is a dualism in the politico-legal culture as “on the one hand we encounter a colonial and individualistic conception of their civil rights, embedded in some of the country’s laws and the behaviour of state agents, while on the other some norms and some sectors

of the state are introducing a multicultural and collectivist approach to those rights” (ibid:175). The idea of “group” human rights rejects the supremacy of civil and political rights, characterized as individual, over economic, social, and cultural rights, characterized as collective (Piovesan, 2004).

Here, I will list the most important articles from a number of different sources:

- Article 2 of FUNAI<sup>14</sup>, O Estatuto da Fundação Nacional do Índio, (approved on the 23th March 2017, published on the Diário Oficial da União on the 24<sup>th</sup> March 2017) states that the following competences and functions of the statute:

II - formular, coordenar, articular, monitorar e garantir o cumprimento da política indigenista do Estado brasileiro, baseada nos seguintes princípios:

- a) reconhecimento da organização social, costumes, línguas, crenças e tradições dos povos indígenas;
- b) respeito ao cidadão indígena e às suas comunidades e organizações;
- c) garantia ao direito originário, à inalienabilidade e à indisponibilidade das terras que tradicionalmente ocupam e ao usufruto exclusivo das riquezas nelas existentes;
- d) garantia aos povos indígenas isolados do exercício de sua liberdade e de suas atividades tradicionais sem a obrigatoriedade de contactá-los;
- e) garantia da proteção e da conservação do meio ambiente nas terras indígenas;
- f) garantia da promoção de direitos sociais, econômicos e culturais aos povos indígenas; e
- g) garantia da participação dos povos indígenas e das suas organizações em instâncias do Estado que definam políticas públicas que lhes digam respeito.<sup>15</sup>

---

<sup>14</sup> The National Indian Foundation (**FUNAI**: Fundação Nacional do Índio) is a governmental agency for the rights of indigenous peoples. Decree 7,778 of 2012 kept this new language of “protection of the indigenous peoples” unchanged, giving the FUNAI the objective of promoting “studies to identify, delimit, demarcate, and formally enter in the land registry the lands traditionally occupied by the indigenous peoples” (Article 4, Annex 1, Decree 7,778 of 2012). The FUNAI has inherited colonial assumptions and has never been given enough resources to carry out its legal duties (Oliveira and Almeida, 1998).

<sup>15</sup> See: <http://www.funai.gov.br/index.php/estrutura-organizacional/estatuto-da-funai>

- **Art. 4** and **art. 198** of the Brazilian Federal Constitution recognize *territorial rights* to the Indian peoples of immemorial settlements in a specific area;
- Articles 231 and 232 of the Brazilian constitution could be seen as key articles. (Lanni 2011:68). Art. 231 of the Brazilian constitution states that indigenous peoples who live in the country and everything that they know at a social, linguistic, religious and legal level are subjected to a legal recognition (Lanni 2011:11). De Souza Filho in Lanni (2011:180) points out the importance of article 231 which guarantees the effective rights of indigenous peoples;
- For what concerns language rights issues, **art. 210.2** assures that the indigenous communities use their mother tongue and learn these languages in the framework of public education, after having established the general rule of the primary school teaching in Portuguese;
- **Art. 213.1** says that the State will defend the manifestation of indigenous culture;
- **Art. 231** states that indigenous peoples will see social organization, habits, languages, cults and traditions as those of native rights on the lands where they live, and the state has to mark the border. These norms belong to the so called *direito constitucional indigenista*. Chicão (Francisco de Assis Araújo, head of the Xucuru from 1986 to 1998) is known for saying that the chapter of the constitution and Articles 231 and 232 (on the Indians) are the fruit of the blood, sweat, and tears of the indigenous peoples (McDowell Santos 2016:178);
- **Art. 215** and **216** state the deep cultural diversity that consider also indigenous culture. According to these articles, the state must preserve this so-called multiculturalism, not only because it is right of the *indios* and of each community, but also a right of everyone (Poggeschi 2010:316).

**Indigenous organizations in South America:**

EZLN (*Ejército Zapatista de Liberación Nacional*)

CONAIE (*Confederación de Nacionalidades Indígenas del Ecuador*)

CONAMAQ (*Consejo Nacional de Ayllus y Markas del Qullasuyu*)

ONIC (*Organización Nacional Indígena de Colombia*)

*Fondo para el desarrollo de los Pueblos indígenas de América Latina y el Caribe*

## Chapter 3 – The Case of Guaraní

In this chapter I will analyse the case study of my thesis, which is the Guaraní language. Before starting, it is necessary to underline the fact that I will focus on Guaraní language in Brazil, not in Paraguay. The reason for this is that Guaraní became the official language of Paraguay (Gomez Rendon 2008:206), where “only with the fall of Stroessner’s dictatorship in 1989 and the passing of a new Constitution in 1992, Guaraní obtained its official status on a par with Spanish”.

Firstly, I will mention the main characteristics of the Guaraní population and a number of historical facts relevant to it. Later on, to be more persuasive about the importance of preserving this indigenous community, I will mention the current situation of a Guaraní-Kaiowá. The reason behind this choice is that Guaraní-Kaiowá is among the most endangered ethnic groups of Brazil according to a report of Survival, a NGO whose main purpose is to raise awareness on indigenous endangered communities all over the world.

Secondly, I will focus on Guaraní language in general, presenting its main features and providing an accurate analysis in sociolinguistic terms.

Thirdly, I will come to the most interesting and meaningful section of my thesis. I will proceed to explain why it is important to preserve, recognize and promote indigenous endangered languages, presenting some educational projects that have been carried out from several organizations. These are initiatives made by the *Museu do Índio* in Rio de Janeiro and a testimony of a Guaraní student.

### 3.1 The Guaraní population

The Guaraní<sup>16</sup> are a group of indigenous people divided into three sub-groups: Mbyá, Kaiowá and Ñandeva. The Kaiowá and the Ñandeva groups live in the state of Mato Grosso do Sul (close to the border with Paraguay), Espírito Santo, São Paulo, Paraná, Santa Catarina e Rio Grande do Sul. This indigenous population also inhabited Eastern Paraguay and Argentina. Mbyá live in the state of Rio de Janeiro<sup>17</sup>. The Guaraní “were warlike and took captives to be sacrificed” and to be eaten. In the 14<sup>th</sup> and 15<sup>th</sup> centuries, some Tupian speakers migrated to the Rio de la Plata and they later became the Guaraní of Paraguay. Only a few scattered communities of Guaraní Indians who are considered “pure” still survive in the forests of north-eastern Paraguay<sup>18</sup>. However, as the website reports, this community rapidly decreased in number in the late 20<sup>th</sup> century. Spanish contact with the Guaraní was initiated with the search for gold and silver. The Spaniards founded small ranches in the proximity of Asunción (Paraguay). This ethnically mixed group later became the population of modern Paraguay. As the website states: in the 17<sup>th</sup> century the [Jesuits](#) established missions (*reducciones*) in eastern Paraguay among the Guaraní of the [Paraná River](#). Eventually, about 30 large and successful mission towns [constituted](#) the famous “Jesuit Utopia,” the Doctrinas de Guaranies. In 1767, however, the expulsion of the Jesuits was followed by the scattering of Indians living in the missions, and they were often captured as slaves, with all their lands confiscated. Paraguay’s nationalism emphasizes the continuity of the customs of Guaraní, its language and habits. However, as the website states, the Spanish way of life “engulfed” the Guaraní and no truly indigenous customs have survived except for the language, which is considered “now much-altered”. The Guaraní is considered the largest Indian society in Brazil. Nowadays, they live in small areas in the southern region of Brazil “which are all that remains from the huge territory they had in the past: they once occupied the lands

---

<sup>16</sup> See <http://linguistics.byu.edu/classes/Ling450ch/reports/Guarani1.html>

<sup>17</sup> <http://www.museudoindio.gov.br/educativo/pesquisa-escolar/243-os-guarani-no-rio-de-janeiro>

<sup>18</sup> See <http://linguistics.byu.edu/classes/Ling450ch/reports/Guarani1.html>

from the state of Espirito Santo to Rio Grande do Sul<sup>19</sup>". In order to understand the social issues concerned to Guaraní groups today more effectively, I have taken into account a report made by Survival on March 2010. The report was made to illustrate the current situation of the lives and livelihoods of the Guaraní Indians in the state of Mato Grosso do Sul. This report<sup>20</sup> states that said community is being seriously damaged by the denial of land rights: "the Guarani suffer from unfair imprisonment, exploitation, discrimination, malnutrition, intimidation, violence and assassination, and an extremely high suicide rate" and this is an extremely negative picture of the situation. A leading voice in the matter is Professor James Anaya, the UN Special Rapporteur on the situation of human rights and fundamental freedom of indigenous people, who visited Brazil in August 2008. On the problem of non-indigenous settlement of indigenous land, the Rapporteur states (in paragraph 73) that the situation of indigenous peoples in Brazil is seriously worrying, since in the state of Mato Grosso do Sul indigenous peoples suffer from "a severe lack of access to their traditional lands, extreme poverty and related social ills". 45,000 Indians of Mato Grosso do Sul face a real "social apartheid", caused by their inability to exercise their rights. In his report about the Guarani Kaiowá of Mato Grosso do Sul, anthropologist Marcos Homero Ferreira Lima of the Public Prosecutor's Office of Dourados, Mato Grosso do Sul (the body charged with protecting and enforcing indigenous rights) states that:

"The situation of the Guarani Kaiowá of the Cural do Arame requires an immediate and urgent solution. It is not an exaggeration to speak of genocide, since the series of events and actions committed against this group since the end of the 1990s has contributed to subjecting its members to conditions preventing their physical, cultural and spiritual existence. Children, young people, adults and the elderly are subjected to degrading experiences which directly harm their human dignity" (P2)

In order to make the situation clear, it is important to report that in May 2002, Deputy Orlando Fantazzini, the President of Brazil's Commission on Human Rights, made an urgent request for the government to protect the Guarani, especially in relation to widespread problems such as malnutrition and suicide. The report (2010:10), made by

---

<sup>19</sup> <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/indigenous-peoples-brazil-guarani-case-un>

<sup>20</sup> [http://assets.survivalinternational.org/documents/207/Guarani\\_report\\_English\\_MARCH.pdf](http://assets.survivalinternational.org/documents/207/Guarani_report_English_MARCH.pdf)



Survival International to CERD, examines the human rights abuses suffered by the Guaraní of Mato Grosso do Sul state. Survival international has worked to help these communities of Guaraní for many years. However, as the report of Survival states, it acknowledges that the Guaraní of the Brazilian states of Rio de Janeiro, São Paulo, Santa Catarina, Rio Grande do Sul, Espírito Santo and Paraná, and even those living in Bolivia, Paraguay and Argentina also face serious problems and their situation must be addressed too. As previously stated, the Guaraní Indians that live in Brazil consist of three groups: Mbyá, Kaiowá and Ñandeva. The Kaiowá and the Ñandeva who live in the state of Mato Grosso do Sul, on the border with Paraguay (Survival 2010:3). The Guaraní live in extended family groups and each has its own land called tekohá, which refers to the whole space occupied by natural resources such as land, rivers, forests and gardens, all integral parts to the sustaining their way of life. Rosalino Ortiz Ñandeva told Survival that “Land is sacred for us Kaiowá. Land is the essence of Kaiowá life for us Guaraní indigenous people” (ibid:3) Many of the injustices declared by the Guaraní are actually in breach of the Brazilian Constitution, Brazil’s Indian Statute, the UNDRIP (UN Declaration on the Rights of Indigenous Peoples, the International Convention on the Elimination of All Forms of Racial Discrimination, and the ILO Convention 169, to which, as previously stated, Brazil is a signatory. At page 5 of the Survival report, it is possible to read that the Guaraní of Mato Grosso do Sul “suffer a wave of suicide unequalled in South America” and also that “they also suffer from high rates of unfair imprisonment, exploitation in the work place, malnutrition, violence, homicide and assassination”. Contributing to this situation which has been defined a “social apartheid”, there is a resistance amongst the non-indigenous society in Mato Grosso do Sul against any process of recognition and demarcation of Guaraní Kaiowá lands (ibid:10). So, it could be stated that, as stated by the Survival report, there is a resistance which is increasing and has a strong prejudice in the form of racism against the indigenous population. Indeed, Dr. Marcio Meira, President of FUNAI (government’s indigenous affairs department), said that ‘in Mato Grosso do Sul, there is a very strong anti-indigenous movement, which harms the Guaraní Indians who live in the area’. In support of what has just been stated, the report which I have analysed confirms that there were 60 assassinations of indigenous people in 2008, 42 of which occurred in Mato Grosso do Sul and whose victims were Guaraní Kaiowá. Assassination is a constant threat for the Guaraní, especially for the community leaders

who are campaigning for land rights or who lead the reoccupations. As the report then says, the leaders of these indigenous communities often suffer violent attacks and killings, with little or no protection from the state.

The report (ibid:12) states that the response to the injustices and desperation that the Guaraní find themselves to face are reflected in a very high suicide rate, ‘one of the highest amongst any tribal and non-tribal people in the world’. The suicide of the Guaraní-Kaiowá people are examined in the UN’s 2009 report with the title “The state of the world’s indigenous peoples”. This high suicide rate is worrying and significant at the same time, as it underlines the bad situation which these indigenous communities are subjected to:

‘The Guaraní are committing suicide because we have no land. We don’t have space any more. In the old days, we were free, now we are no longer free. So, our young people look around them and think there is nothing left and wonder how they can live. They sit down and think, they forget, they lose themselves and then commit suicide.’

In its 2005 report, the Guaraní Kaiowá Indigenous Rights Commission states that ‘public policies on indigenous peoples do not respect the Federal Constitution or ILO Convention 169, and do not consider our way of being, of living, of thinking and of organising ourselves’ (ibid:18). In conclusion of its report (ibid:19), Survival International gives a list on what should be done by the Brazilian public institution:

- comply with the Public Ministry and complete its land demarcation programme (TAC) as a matter of urgency;
- comply with the international instruments to which it is a signatory, especially the International Convention on the Elimination of All Forms of Racial Discrimination and ILO Convention 169 on the rights of indigenous and tribal peoples;
- speed up the cases of disputed Guaraní land currently before the courts;
- address the issue of impunity for crimes committed against the Guaraní;
- take measures to ensure that the Guaraní are not imprisoned for petty crimes and have access to proper legal representation and a hearing in their own language (ibid:18).

### **3.2 The Guaraní language**

As announced in the introduction of this chapter, the language of Guaraní is now one of the official languages of Paraguay. The name itself comes from a Guaranian word, *guarini*, meaning “war” or “warrior” and is connected to this population’s “bloody past

as one of many contending tribes of South America”<sup>21</sup>. The Tupi-Guaraní language of the Tupi family is also spoken in Paraguay, the Argentinean provinces of Corrientes, Misiones, Formosa, Chaco and the north of Santa Fe (Dietrich 2002: 32). Currently, the Guaraní language represents a population and a culture that are constantly “trying to hold on their ethnic heritage—and succeeding”. Guaraní language is part of the Tupí-Guaraní family which includes many indigenous languages spoken in the south of the Amazon. Consequently, it could be stated that Tupí and Guaraní are two prominent branches of this family and they probably “stemmed from this common proto-language nearly 2000 years ago”<sup>22</sup>. Currently, the language is spoken by four and a half million peoples throughout the countries of Argentina, Bolivia, Brazil and Paraguay. As Rodrigues (1942:18) states, Guaraní has ancient roots:

O Proto-Tupi-Guarani ou Tupi-Guarani comum e a lingua que falava um tronco tribal que, varios seculos antes da chegada de Colombo ao continente americano, estava estabelecido na regio que fi ca entre os rios Parana e Paraguai; e “um estado linguistico homogeneo ou mais ou menos tal; e a primeira estratifi cacao, a qual comporta particularidades linguisticas entrevistas antes da epoca historica, i.e., antes dos fracionamentos dialetais” (Rodrigues, 1942:18 in Camara Cabral, Silva Martins, Correa da Silva, Soares de Oliveira 2014:517)

As Gomez Rendon (2008:195) states, Tupi languages are spoken over an extensive area in South America, “approximately from 4° in the North to 30° in the South” (Gregores and Suárez 1967:13). Interestingly, the scholar points out that “while Tupi languages keep a close resemblance to each other, similarity is notably reduced between Paraguayan Guaraní and other languages of the same family” (ibid:195). In addition, there are other languages of the Tupi-Guaraní family that are spoken in Paraguay such as Pa\_Tavyterã, Mbya, Chiripá, Ache, Tapieté and Chiriguano (the last two languages are spoken in Bolivia as well). Scholars have called these varieties ‘ethnic Guaraní’ in order to distinguish them from the Paraguayan variety which is also called ‘Mestizo Guaraní’ and Classical Guaraní, also called ‘Jesuitic Guaraní’ (Gomez Rendon 2008:195). Focusing on the sociolinguistic aspect and taking into account MEC 2009 data and the 2002 Paraguayan census, Gomez Rendon (ibid:196) states:

In 1992 the percentage of Guaraní monolinguals (39.30%) was considerably higher than the percentage of Spanish monolinguals (6.40%), particularly in rural

---

<sup>21</sup> See <http://linguistics.byu.edu/classes/Ling450ch/reports/Guarani1.html>

<sup>22</sup> *ivi*

areas (MEC 1999). Also, the percentage of bilinguals (49%) was less than half of the country's population (4,152,588 in 1992). By 2002 bilinguals above five years increased to 59% (2,655,423 speakers) while Guaraní monolinguals decreased to 27% (776,092 speakers). By the same year the percentage of bilinguals from rural areas had increased to 17.62%, with a similar decrease in the percentage of Guaraní monolinguals in the same areas. Guaraní speakers including bilinguals and monolinguals above five years of age counted 3,946,904 people, according to the 2002 census.

It should be properly pointed out that this data shows the percentages of the Guaraní speakers in Paraguay, not in Brazil. However, I have decided to report these percentages because Guaraní is the official language of Paraguay, together with Spanish, and it is therefore important to consider this data. Regarding Brazil, which is at the core of this thesis, Gomez Rendon (2008:217) states that nowadays “Guaraní is spoken also in the northeast of Argentina and the south of Brazil by Paraguayan immigrants”.

### **3.2.2 Guaraní language in Brazil: a sociolinguistic perspective**

Focusing on Indigenous languages in Brazil, it is important to give a historical overview on the origins and the development of this language. Following Rodrigues (2014:443), the contact between the Portuguese and Brazilian Indians dates to the 16<sup>th</sup> century. It is important to keep in mind that Brazil was discovered by the Portuguese colonists in 1500 and the settlement started 30 years later. During this expansionist movement, the Portuguese got in contact predominantly with local groups of Tupinamba, and for this reason the Portuguese “were led to consider the language of the Tupinamba as the Brazilian language *par excellence* (*lingua brasílica*) and to build a binary distinction of the Indian peoples they met on it: “nations of Brazilian language” and “nations of blocked languages” (*nações de língua travada*)” (*ibid:443-444*). Later on, as Rodrigues argues, what was considered *lingua brasílica* was replaced by *lingua geral*, in English “general language”. The first Portuguese settlements in Brazil began with “either bachelors, or married men whose wives were left back in Portugal” (*ibid:444*). The women in the settlement were Indians and the offspring were therefore mestizo. So, the family language was Tupinamba and it was used as *lingua franca*. The progressive dominance of the Portuguese language over the Tupinamba was caused by this continuous immigration of the Portuguese who began to settle with their wives, contributing to the extinction of the Indians; this happened in the settlements that developed more rapidly such as those in

Pernambuco and Bahia. In some of these settlements, the Indian language was left behind already by the second half of the 17<sup>th</sup> century. The opposite thing also happened in areas isolated from those centers of economic development: there, the dialects such as *lingua geral* lasted longer. In particular, in São Paulo, until the end of the 18<sup>th</sup> century and in the states of Para and Amazonas until the 19<sup>th</sup> century. However, in “some places” some dialects lasted until the 20<sup>th</sup> century. It must be noted that “in São Paulo, *língua geral* was the language of the *bandeiras*, the first expeditions of settlers in the west of São Paulo, most of Minas Gerais, Goiás, and southern Mato Grosso” (ibid:444). For what specifically concerns Indian languages today, Rodrigues (ibid:445) states that we presently distinguish about 20 language families. Each of those families consist of two to twenty or more languages that are “supposed to have a common origin”. A few of these families are composed by greater units, which are the “linguistic stocks”. The Tupi stock consists of seven language families: Tupi-Guaraní, Munduruku, Juruna, Arikem, Tupari, Monde, Ramarama and the Purubora language, which is a linguistic isolate. Tupinamba, the language that I have mentioned before, is a member of the Tupi-Guaraní family. Focusing finally on Guaraní, Rodrigues (ibid:445) states:

Old Guarani was abundantly documented by a Spanish missionary in the 17th century in the west of present day State of Parana. Modern Guarani dialects are spoken today by Indians in the States of Sao Paulo, Parana, Santa Catarina, and Rio Grande do Sul as well as in southern Mato Grosso (extending also to Paraguay and Bolivia). In the study of Portuguese lexical borrowings from the Indian languages we can distinguish words originated in Tupinamba from word coming from the Guarani dialects and those stemming from Amazonian *lingua geral*.

More importantly, Rodrigues affirms that “Guarani contributed only to dialects of Portuguese in Southern Brazil” (ibid:445). Also, when comparing Tupinamba and Guaraní dialects (ibid:446), Rodrigues gives an interesting example:

the Guarani dialects lost final unaccented syllables, and Brazilian Portuguese reflects this difference: *Piratininga* in eastern São Paulo comes from Tupinamba /piratinina/ ‘dried fish’, while *Piratini* in Rio Grande do Sul is due to Guarani *piratini* with the same meaning.

## Southern Tupí-Guaraní languages



(source:[http://linguistics.berkeley.edu/~zjohagan/pdflinks/gasparini.et.al.\\_tg\\_southern\\_phylo\\_areal\\_WAIL\\_2015.pdf](http://linguistics.berkeley.edu/~zjohagan/pdflinks/gasparini.et.al._tg_southern_phylo_areal_WAIL_2015.pdf))

### 3.3 The importance of education in indigenous mother-tongue

In this paragraph I will explain the reasons why education in indigenous mother-tongues is important. Therefore, I will now outline why it is important to carry out language teaching projects in indigenous peoples' mother tongue by using a number of sources. Firstly, following De Varennes (2012:36) brilliant ideas "[T]he best way to ensure the inclusion of indigenous children in the school system is education in their mother-tongue, with good teaching of the dominant language as a second language". De Varennes then refers to the XVI Session of the Working Group on Indigenous Populations of the United Nations Centre for Human Rights, where the following words could be found:

... the choice of an inappropriate language medium of education [since it] is the main pedagogical reason for "illiteracy" in the world. Indigenous and minority parents are routinely told that their children will learn the dominant language better (and thus perform better in school) by being exposed to it as early and as much as possible, even at the cost of sacrificing their own language.<sup>23</sup>

So, taking this sentence into account, we come across the identity question as it was explained in the second chapter of this thesis. According to De Varennes (ibid:39):

Indigenous languages are more than a means of communication: they are central to the sense of identity and the culture of their speakers. The loss of any indigenous language brings with it a loss of culture, of a whole way of perceiving and representing the world. Linguistic diversity, perhaps particularly in the case of indigenous languages, needs to be protected as part of humanity's global cultural heritage.

This is a particularly meaningful sentence because it sums up the most important principles related to the importance of preserving indigenous languages and therefore these stand at the core of this thesis. Consequently, it could be stated that this is the key sentence of the present work. Moreover, the Canadian scholar (ibid:39) also argues:

it may be possible to revitalise indigenous languages where they become languages of prestige and opportunity. While many countries and the international community have greatly improved their approaches as to the position of indigenous languages symbolically and in the field of education, it remains that much needs to be done in the

---

<sup>23</sup> Terralingua (1998), *Linguistic Human Rights in Education*, Submission to the XVI Session of the Working Group on Indigenous Populations of the United Nations Centre for Human Rights. Salt Spring Island, BC, Canada, at <http://www.terralingua.org/TLUNLetterLHR.htm>

fields of implementation and actual use of indigenous languages for significant tangible results to appear in the future.

So, as it is clear from his words, other significant results must appear in this fields: that of implementation and teaching of indigenous languages.

To this regard, in the “Study on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples”<sup>24</sup> (UN:2012) it is argued that “there is often a lack of State support for the retention and revitalization” of indigenous peoples’ languages as “for example, indigenous peoples’ languages are often not officially recognized in legislation and policy and insufficient funding is available for language revitalization”. Even where official efforts are made to adopt bilingual education programmes, implementation can be a problem. At page 10 of this report, the following sentence can be found:

There are examples of the placement, often forced, of indigenous children into schools, including residential, boarding and day schools, to teach them non-indigenous ways, which has had a tremendously negative impact on the continuation and preservation of languages and cultures, on the physical and mental health of indigenous individuals and on the retention of their traditional knowledge.

This sentence is particularly meaningful for the present work, indeed later I will reference an example of forced placement of a community of Guaraní (see paragraph 3.4). In addition, the UN report states UNESCO has recognized that even social factors could “contribute to failures to transmit languages” as for example, “lack of utility in mainstream society and concerns about the discrimination that can attach to indigenous language speakers, especially indigenous children”. The report then provides a negative view on the promotion and revitalization of languages by stating that there are not many examples of promotion and revitalization projects. However, the same report states at page 11:

[promotion and revitalization projects] have usually involved indigenous peoples and States working in partnership to provide the requisite support, including official recognition of indigenous languages as national languages [...] funding for indigenous language immersion and/or bilingual schooling for children and adults, media available in indigenous languages, the use of indigenous languages in official proceedings (including legal and judicial and quasi-judicial), with provision made for translation and interpretation, support for publications in indigenous languages, support for indigenous-

---

<sup>24</sup> [http://www.un.org/esa/socdev/unpfii/documents/EGM\\_IL\\_OHCHR.doc](http://www.un.org/esa/socdev/unpfii/documents/EGM_IL_OHCHR.doc).



led and culturally sensitive education systems, public awareness campaigns and the allocation of funds for language revitalization<sup>25</sup>.

More interestingly, the report states that, according to research and studies, those children who receive “indigenous language immersion education have stronger indigenous language skills than children who learn indigenous languages in second language programmes and, in addition, have the same level of dominant language of the State” (ibid:11).

Secondly, in Skutnabb-Kangas, Hamel (1994:281) endorses two claims concerning *literacy in L1 or L2* which refer specifically to indigenous peoples’ education. The first argument is the following:

*Technical and professional* arguments support the view that alphabetization in L2 is difficult due to learners’ limited competence in that language; literacy in L1 is faster, afterwards strategies of transfer to L2 can operate. *Political and cultural* arguments include the higher valorization of Indian culture through L1 education; every individual’s right to acquire literacy in her or his own language; and that literacy in L1 contributes to a modernization and standardization of Indian languages which is necessary for their survival.

The other position is in favour of *L2 literacy*. Below follows the original text, as the author uses a number of technical terms which could not be paraphrased without losing their original meaning:

Whereas in Mexico L2 literacy is justified on the basis of folk theories like “maximum exposure”, and with the necessity to assimilate, to grant upward mobility, etc., in Brazil the sharp ethnolinguistic dualism serves to justify L2 literacy (cf. Ladeira 1981) on the *technical* grounds that literacy in L1 would only produce “semi-literate” anyway; or the support of L2 literacy is based on *political and cultural* arguments such as Fishman’s well-known postulate that cultural and linguistic maintenance could only be guaranteed if a clear division of functions and forms between the cultures and languages (diglossia and id-ethnia) is preserved. Since the school is considered to be an instrument of the dominant occidental society and belongs to the “they-code” universe, Indian languages and cultures should be kept out of school in order to avoid their hegemonization, assimilation, and refunctionalization. Furthermore, literacy in L1 is supposed to provoke violent changes in a non-literate society and reflects an ethnocentrist view which takes the written language as the best form to transmit knowledge, even cultural knowledge from a society based on orality. Furthermore, literacy in L2 (and oral acquisition of Portuguese) are needed for contact and wider communication; their learning avoids most of the problems mentioned before.

---

<sup>25</sup> See the report available at [http://www.un.org/esa/socdev/unpfii/documents/EGM\\_IL\\_OHCHR.doc](http://www.un.org/esa/socdev/unpfii/documents/EGM_IL_OHCHR.doc)  
at page 11

Reading the two sets of arguments, it could be stated that those reflect different views of “ethnicity, cultural contact, the role of the school as an institution, and political control in a socio-economic and cultural context” (ibid:282). More importantly, Hamel argues that alphabetization is seen as a threat to orality-based Indian cultures. Consequently, researchers and activists are trying to develop “methods, techniques, and materials that are meant to reduce the effect of alienation and help Indian ethnias to achieve control over their education” (ibid). Hamel interestingly argues that the most successful participative projects that had required the participation of “Indian bilingual and bicultural education are carried out by NGOs”. At the time when Hamel wrote, one of the main problems was the lack of materials and professional support as well as the “absence of documentation and research about ongoing projects” (ibid:282-283). Later the present situation will also be analysed and compared with past. To conclude this section, the scholar argues that the most important strategy to follow is to “support, encourage and initiate local projects, starting wherever possible from an Indian initiative”. Also, “projects would have to be accompanied by integrative, multidisciplinary research capable of evaluating and testing specific aspects of the process, and of furnishing constant feedback to the educational process itself”. Lanni (2011:52) defines the right to cultural identity. As stated in the previous chapters, it is important to point out that recognizing and promoting indigenous peoples’ language rights means to put these concepts into practice through the organization of projects in schools and universities. It is rather obvious, Lanni argues (ibid), that education represents the opportunity to avoid language exclusion. However, if the values transmitted from the school do not account for the importance of indigenous peoples’ culture, the school itself risks contributing to the loss of identity of indigenous peoples.

To better illustrate the importance of endangered languages literacy, I have considered Hornberger’s work (1998). This article provides some examples of endangered languages literacy and also refers to the case of the Guaraní literacy campaign. Hornberger tells his experience in Amazonian Brasil:

Every year since 1983, an indigenous teacher education course sponsored by the Comissão Pró-Índio (CPI) of Acre State has been held during the summer months (January–March) in the Amazonian rainforest of Brazil. The 1997 session was attended by some 25 professores índios ‘indigenous teachers’, representing eight different ethnic groups whose languages are in varying stages of vitality, from those with about 150 speakers to those with several thousand. One of the striking features of the course is that

the *professores índios* are simultaneously learners and teachers-in-information; i.e., they are simultaneously learning the school curriculum themselves for the first time, while also preparing themselves to return to their *aldeias*, or communities, to teach (Hornberger 1998:440).

This shows a clear “language as resource orientation” in which *professores índios* encourage and exchange information among themselves despite their different languages. Therefore, it could be stated that this language policy “can and does have” (ibid 1998:452) an impact on efforts aimed at promoting the vitality and revitalization of indigenous languages, at least on those that are considered in danger. So, in this sense, Hornberger argues that “we can speak of language policy as a resource”; “it is also true, however, that the force of history may overwhelm any policy attempt” because it is also their positioning in society that determines their patterns of language use. Following Hornberger’s view, it could be stated that language consideration refers to the relative linguistic significance of groups of speakers. Mac Póilin, cited in Hornberger (ibid) says that the significance of each language “is related less to the number of speakers than to the degree to which the language is integrated unto the daily life of its users, their social coherence; and most importantly if the language is to survive, the community’s ability to successfully regenerate itself as a speech community” (1996:4). For what concerns language revitalization, Hornberger then argues as follows:

Of fundamental importance here is that such revitalization efforts are not about bringing the language back, but rather about bringing it forward: the crucial importance of the involvement of speakers of the language becomes even more apparent. In a very real sense, revitalization initiatives are not so much about bringing a language back; but rather, bringing it forward; who better or more qualified to guide that process than the speakers of the language, who must and will be the ones taking it into the future? (Hornberger & King 1996:440).

So, language education professionals could be active contributors to negotiation and transformative processes of language revitalization, language maintenance, or even language shift. In this field, language education professionals could play an important role as policy makers, “whether they are classroom practitioners, program developers, materials and textbook writers, administrators, consultants, or academics (cf. Hornberger&Ricento 1996). Still, the scholar points out that the implementation of a “language as resource” perspective does not offer a conflict-free solution (Hornberger 1998:454). To this regard he states:

In our finite world, the recognition and incorporation of multiple languages within any single educational system is bound occasionally to bring the language rights and needs of one group into conflict with those of another, not to mention the long-standing conflict between language and content priorities in the education of language minorities.

Looking at language rights from a “language as resource” perspective, it is not a question of automatic “concession on demand”, but rather of control and choice among potential alternatives, also considering other possibilities. According to Hornberger (1998:455):

it is crucial that language minorities be empowered to make choices about which languages and which literacies to promote for which purposes; and that, in making those choices, the guiding principles must be to balance the counterpoised dimensions of language rights for the mutual protection of all. Among the balances that must be struck across competing language rights are those between tolerance-oriented and promotion-oriented rights (Kloss 1977), between individual and communal freedoms (Skutnabb-Kangas 1994), between freedom to use one’s language and freedom from being discriminated against for doing so (Macías 1979), and between “claims to something” and “claims against someone else” (Ruiz 1984).

Hornberger (ibid:445) is talking about ethical choices which are difficult but that must be made. In simple words, the scholar states that the language minority speakers themselves should play a central role in language policies. Also, the scholar argues that language policy and language education serve as vehicles for promoting “the vitality, versatility, and stability of these languages, and ultimately of the rights of their speakers to participate in the global community on and in, their own terms”. In the next paragraph I will try to give more relevance to this thesis by illustrating some examples of educational projects created for the preservation of the rights of indigenous peoples.

### 3.4. Examples of educational projects for preservation of the rights of indigenous peoples

Before coming to the core of this paragraph, it is important to mention an example of attitude towards Guaraní language groups in the past, to point out that language policies in favour of indigenous peoples are actually a quite recent accomplishment. There is an extremely meaningful article written by Elisa Frühauf Garcia (2007) which tackles the issue from a historical perspective. In her article, the Brazilian scholar mentions two teaching establishments that were founded in the 1770s; those were a school and a secluded camp that were created to educate the indigenous population of Aldeia dos Anjos, a village in the territory of Rio Grande de São Pedro. These establishments were based upon the Marquis of Pombal's Directorate. This Directorate aimed to integrate the Indians into the colonial society. For this reason, knowledge of the Portuguese language was imposed: it was seen as an obligation for the Native population, and the speaking of Guaraní was actually prohibited (Frühauf Garcia: 23-24):

Em meados do século XVIII, o ministro Sebastião José de Carvalho e Melo, futuro Marquês de Pombal, elaborou uma série de medidas visando integrar as populações indígenas da América à sociedade colonial portuguesa. Estas medidas foram sistematizadas no *Diretório que se deve observar nas povoações dos índios do Pará e do Maranhão enquanto sua majestade não mandar o contrário*, publicado em 3 de maio de 1757 e transformado em lei por meio do alvará de 17 de agosto de 1758.

The term “língua geral” is considered a general term which does not define a specific language (Frühauf Garcia 2007:24) but a language that is based on the tupi-guaraní, one that varies depending on the region or state where it is spoken. During what the Brazilian scholar defines “processo da disseminação de seu uso por amplos segmentos sociais e da normalização gramatical”, these languages were modified. Thus, it did not become an indigenous language but a colonial dialect (ibid). At that time, during school hours students had to follow some specific codes of conduct:

Enquanto estivessem na escola, os alunos deveriam ser vigiados para respeitarem rígidos padrões de limpeza e higiene pessoal e também para, em hipótese alguma, falarem a língua guarani. No regimento estava previsto um castigo para o menino que falasse o guarani e o perdão para quem o delatasse. (Frühauf Garcia 2007:29)

The author also argues that “as crianças” could start attending these “estabelecimentos de ensino” only when they were 6 years old, not younger. This way, they would have already acquired “o domínio do idioma guarani” since they lived with their families. Thus, if the older índios spoke Guaraní only, while children were bilingual, they naturally chose to use Guaraní, with the risk of not communicating with their families (Frühauf Garcia 2007:30). In 1800 and 1801, the teaching establishment and secluded camp were shut down and the buildings were closed, as a consequence of the “esvaziamento indígena” da Aldeia (ibid:35). As the Brazilian author points out “apesar do efetivo funcionamento da escola e do recolhimento por mais de duas décadas, a política de substituição da língua guarani não parece ter sido vitoriosa naquele momento, considerando-se as reiteradas críticas sobre a pouca disposição demonstrada pelos aldeados em aprender e utilizar a língua portuguesa”. These institutions remained open for more than two decades and this language policy that required an actual substitution of Guaraní did not appear to be effective at that moment also because the inhabitants of the village were not really interested in learning Portuguese. So, the customs and traditions of Guaraní between the inhabitants of the villages could be seen in various aspects of their lives. Some of these customs were even modified with the experience in the Aldeia dos Anjos, from their encounter with the “lusso-brasileiro” (ibid:36). Even the Brazilian scholar underlines the relation between language and identity for what concerns the question of indigenous peoples referring to “a identidade reafirmada por meio da língua” (ibid:36). *O idioma guaraní* was subjected to changes because of historical factors such as the contacts with Portuguese and Spanish, not because of those establishments made by the Brazilian government. Guaraní was “a língua por excelência da experiência missioneira”; the Guaraní group of this village used to communicate with missionaries, so they used it as a lingua franca. This way the language survived. Coming to the core of the identity question, it could be stated that this attempt of negation of the language made the Guaraní in the condition to affirm their language. As Burke (in Frühauf Garcia 2007:38) states “a consciência de identidade é moldada em situações de contato e conflito, os signos ou emblemas de identidade tornam-se signos somente quando uma outra pessoa tenta eliminá-los”. In conclusion, it needs to be pointed out that it was the *Diretório* that contributed to the affirmation of these so called “fronteiras étnicas contribuindo para a consciência que os índios tinham das suas especificidades”.

### 3.4.1 O museu do Índio

Situated in Rio de Janeiro and established by Funai, o *Museu do Índio*<sup>26</sup> (Museum of the Indian) aims at contributing to a greater awareness about the contemporaneity and importance of the indigenous cultures. As an institution for the preservation and promotion of indigenous cultural heritage, it strives to disseminate the existing and historical diversity among hundreds of Brazilian indigenous groups.

The institution has collections of most of the indigenous societies in its custody, consisting of 17,981 ethnographic pieces and 15,121 national and foreign publications, specialized in ethnology and other related areas. The various services of the Museu do Índio are responsible for the technical treatment of 833,221 textual records, which date to the 19th century, and a wide and diversified audio-visual documentation, mostly produced by the Indians themselves. This covers 163,553 photos, 599 movies and videos, 1,295 audios and 771 hours recorded.

Rather than merely sheltering expressive collections, the museum preserves and researches documents and the information contained in them. Thus, it has become a reference point for researchers and people interested in the indigenous issue, contributing with significant advances to the field of Brazilian ethnographic museums. Some of them are run by the Indians themselves. Various initiatives have been made in recent years, such as the installation of conservation laboratories, the reform of technical reserves, the preparation and publication of catalogues, inventories, thesauri and other information and the proper retrieval tools. With the creation of an editorial program, the Museu do Índio issues several publications, thus democratizing access to information on the indigenous situation in the country.

The institution has adopted different communication strategies with the public, such as the provision of information through the Internet and the creation of the Museum of Villages and Museum Wall spaces for the assembly of temporary exhibitions, as well as the long-term exhibition in the central building, which present different forms of expression and knowledge of indigenous societies in Brazil. It uses modern resources in

---

<sup>26</sup> <http://www.museudoindio.gov.br/>

the exhibition of its collections, while also promoting cultural activities with the presence of indigenous citizens. The Creative Space, dedicated to the care of children, reveals the institution's emphasis on working with this audience.

The "Indian in the Museum" event includes the exhibition spaces of the institution such as the Museum of Villages, Museum Wall, Museum Balcony and Indigenous Art Gallery. The proposal, based on direct partnership with the Indians, is the documentation of their culture with a focus on the material culture and the process of production of goods. The creation of the Indigenous Art Gallery and the Indian Space and Art – former Artíndia store – are initiatives of the Indian Museum to add a social and ethnic content to the pieces marketed by different Brazilian indigenous groups. The income obtained is entirely reimbursed to indigenous peoples. Several activities seek to contemplate the mission of publicizing the Museum, offering visitors things such as exhibitions, lectures, videos and short courses.

The Indian Museum also coordinates the Documentation Program for Indigenous Languages and Cultures - PROGDOC: an initiative that encourages the direct participation of the Indians in the promotion of workshops. This action already reaches 135 villages from North to South of Brazil through 42 projects of documentation of languages, cultures and collections, benefiting a population of 30 thousand Indians. Another action of the institution is the Program of Support to Cultural Projects whose purpose is to promote traditional and contemporary cultural manifestations of indigenous peoples. The Indian Museum's partnerships established with the Indians and their various indigenous associations intend to contribute to the defence of land, rights and quality of life of these peoples.

## **Projects**

### **Índio e Arte**<sup>27</sup>

With a focus on safeguarding indigenous cultural heritage, the program proposes actions to protect material culture, with one of its main initiatives being the valorisation of the

---

<sup>27</sup> [indioearte.museudoindio.gov.br](http://indioearte.museudoindio.gov.br)



artisan – both in his community of origin, and in the dissemination centres – and in the sale of his products.

#### Programa de Documentação de Línguas e Culturas Índigenas / PROGDOC<sup>28</sup>

The initiative aims at encouraging indigenous peoples to document their own culture through the promotion of workshops and award research grants. This action already covers 105 villages from the North to the South of Brazil with documentation of specific aspects of 39 cultures and languages benefiting a population of 27 thousand Indians. This program is divided into two main projects: PRODOCLIN - Documentation Project of Indigenous Languages and PRODOCULT - Documentation Project of Indigenous Cultures.

#### Projeto de Documentação de Culturas Indigenas/ PRODOCULT

The project, developed in partnership with indigenous peoples, researches traditional knowledge, myths, rituals, symbolic and aesthetic dimensions, linguistic expressions and ways of associating with the specific aspects of each culture. The ethnicities covered by the project are: Asurini do Xingu, Baniwa, Guarani-Mbya, Kalapalo, Kaxuyana, Kayapó, Kuikuro, Maxakali, Nambiquara, Paresi, Rikbaktsa, Ticuna, Tiriyo, Xavante, Wayana-Aparai.

#### PRODOCERV:

In addition to the collection acquired during its 58 years of existence, the Museum of the Indian received, from its researchers, twenty collections that bring together 26,244 audio-visuals, cartographic, textual and / or ethnographic documents collected from the 1940s until the end of the 20th century. All material is treated and made available to indigenous peoples.

---

<sup>28</sup> progdoc.museudoindio.gov.br

### PRODOCSON:

"The Work of Memory Through the Cantos" is a pilot project for the recording and documentation of acoustic-musical corporations of Amerindian peoples in Brazil. It is developed with the Tikmũ'ũn / Maxakali (MT), Enawene Nawe (MT), Baniwa (AM), Krahô (TO) and Mbyá-Guarani (RS) ethnicities. The project is carried out in the Indigenous Lands of these populations, as well as in the Museu do Índio (RJ), using three axes of work: the documentation of intangible heritage, the exchange of knowledge among neighbouring peoples and the training of young people in the use of audio-visual tools, graphics and archival services.

### Conhecer para Valorizar:

The agreement "Povos Indígenas: Conhecer para Valorizar" was signed between the Ministry of Education and the State Secretariat of Education of Rio de Janeiro in order to promote, through meetings, the training of teachers of the state education network. The agreement also includes the presentation of the Museum of the Indian as a space not only for visitation but also for research on indigenous peoples in Brazil.

### Índio no Museu

Program based on direct partnership with indigenous peoples, carried out through projects of temporary exhibitions presented at the Museum of the Indian.

### 3.4.2 An indigenous student story

In this paragraph I will report an indigenous student's testimony of an undergraduate program in order to take into consideration a Guaraní student's point of view. The paper was written by Marcio Pascoal Cassandre (Universidade Estadual de Maringá), Wagner Roberto do Amaral and Alexandro da Silva (Universidade Estadual de Londrina) published for *Cadernos Epabe.br*, v.14, n°14, Article 5 in Oct./Dec. 2016.

As the authors state, “the indigenous students' attendance in Brazilian public universities has been a quite recent phenomenon, dating back to 2002” (p.934). Following the authors ideas, the fact that indigenous students passed through several undergraduate programs reflect the reality of a double belonging that is both an indigenous and an academic student (ibid). Alex, as he is called in the article, is a student in Administration Bachelor's Degree.

The indigenous' presence in the academic context is rather new, this is “provoking significant reflections and possibilities”. Also, the experience of indigenous higher education “still fragile” (Amaral 2010 in ibid:935). This double belonging of the student is constantly appearing throughout the student narration but also in the article. Indeed, “the testimony is brought up ahead as a research strategy whose intention is an important means of externalizing a little addressed strategy in the universities” (p.936).

A key point of this article is the following:

[T]he indigenous attendance in Higher Education is emblematic and brings many thoughts. One of them is to highlight and simultaneously to try to overcome the limited thought that Indigenous are just forest residents, living in the bush, in villages, according to what mass media and textbooks have reported (LUCIANO,2006). The Indigenous' attendance reveals the possibility of their affirmation as actors and subjects, hence its affirmative dimension (AMARAL, 2010).

As I have previously reported, there have been since colonial times new ways of subsistence in native territories which imposed a model of school “leading to a process of adulteration of life in the villages” (p.937). In Parana, where Alex is from, the most important act for what concern Higher Education indigenous policy is n. 13.134/2001 that has been altered by the Act n. 14.995/2006, “which predicts that indigenous people living

in Parana territory have the right to attend a HEI [cfr. Higher Education for Indigenous peoples], by means of additional vacancies and specific entry exams; also, “the law [...] ensured academic Indigenous students the right for a scholarship whose amount has been updated throughout the decade, although it is not been enough to assure their conditions of survival” (p.937). The author points out that even if “Federal Act n. 12.416/2011 has recently promoted the modification of the Act of Guidelines and Bases for National Education (*Lei de Diretrizes e Bases da Educação Nacional – LDBEN*) concerning offer and student assistance [...] the challenge is significant in terms of building a public policy of Higher Education organically articulated by federal government” (ibid:937).

Here are some useful data reported by the article in order to give a better view on the argument:

From 2002 to 2008, the public HEI from Panama provided 189 vacancies for Indigenous; 173 indigenous applicants were approved and 139 indigenous students were enrolled. Out of the 139 enrolled students only 76 indigenous were attending the course in 2008. About 56.6% were filled by members of the *Kaingang* villages, considering that this ethnic group of indigenous inhabitants in Parana territory is demographically bigger, being followed by the *Guaraní* Indigenous people.

The scholars state that in 2008, only fourteen native students concluded their academic studies and they were the 29.4% of the newcomers between 2002 and 2004. Also, they point out that in 2013 the amount of academic indigenous out of 139 enrolled indigenous (43.9%) left the university (Amaral in ibid:937). Thus, it is clear that this is a rather disappointing attempt to welcome indigenous students in the university. However, the authors remind that our academic context is still “the European monocultural, homogenous and prejudicated kind, although it may also have room for the protagonism and recognition of Indigenous students’ potentialities”. Amaral (2010) talks about this double belonging that is felt by indigenous peoples. So, since indigenous students find the possibility of identifying themselves as natives as well as university students, occupying a new and unacknowledged territory (ibid:938). It is important to remind the fact that indigenous students need to identify themselves as Indigenous -*Kaingang*, *Guaraní* or from other ethnic group – for belonging to a community. In this way, argue Cassandre et al., those subjects “begin to carry possibilities, expectations, needs and factional power relations - depending on the family group who they are linked to – existing in their origin community”.

In addition, giving the possibility to indigenous peoples, to have access to university, it is a way to build indigenous job circuits. *Vestibular dos Povos Indígenas do Paraná* is an event created to give job opportunities to these communities proceeding to the constitution of new Indigenous job circuit. Also, other organization are important to build these job opportunities such as:

- Service for Indigenous' Protection (*Serviço de Proteção aos Índios – SPI*)
- FUNAI (*Fundação Nacional dos Índios*)

These organizations have contributed to “regimenting, hiring, and training indigenous to occupy job positions in those institutions and to work in indigenous lands” (ibid:939). It could be stated that the indigenous job circuit may establish a new moment in the history of the Brazilian Indigenous people’s social, cultural, political, territorial and economic development.

Once again, it is fundamental to remind that Convention 169 of the International Labour Organization (ILO) that was ratified by the Brazilian federal government in 2004 establishes assumptions and legal guarantees about job hiring and relations involving indigenous peoples (ibid:939). Coming back to the job circuit questions, it is important to remind that institutions such as FUNAI, Sanitary Indigenous Districts and State Office for Education and city halls are contributing to train public indigenous servants.

Coming to the core of this paragraph, I will now focus on our friend Alex. The comprehension of his life may firstly help to understand his cultural traces, either in terms of the *Guaraní* community and also to understand his student’s condition in a non Indigenous Higher Education System. Before starting, I would like to mention an example of testimonial narrative which regards the case of Rigoberta Menchú, whose report represents the situations lived by her family from Maya civilization, after her struggle to survive (ibid:941).

So, the testimonial dialogue that was recorder to illustrate Alex’s life, is centred on the following questions (p.941):

- i)why he chose Administration Bachelor’s Degree;
- ii)his difficulties along the courses;
- iii)the importance of this field knowledge for the indigenous organizations and Indigenous;
- iv)his expectations during and after the degree;

v)the relationships established with his family and community of belonging during his academic studies.

### **The story of Alex**

The story of Alex was recorded and translated in English in the article. Here I will report what in my opinion are the most relevant parts of it:

I, Alex, from Guarani ethnic group, was born in an Indigenous village inland Parana, at 26 years old now. I am married with a Guarani student of the Medicine Undergraduate Program of the same university where I am studying nowadays.

I was enrolled for the Administration Bachelor's Degree of this university on February 14th, 2008.

Firstly, I went to live with my sister who was already studying Language and Literature Studies at the University. Later on I moved to an Indigenous cultural center located in the county of my first university. I decided to transfer to Administration Program at University 2, because my wife had already been transferred to that institution.

My father is the *txamói* (shaman or witch doctor) of the village, a politic and religious leadership in my community. I have thirteen brothers, three of them are also academic students and another is getting ready to take my father's religious role.

I cannot return to the village frequently because it is far away and because of some financial difficulties I have faced here.

I met and married my wife at the university. Our union was motivated by our desire to hold on our Guarani costumes and also because we think it is safer to have a partner from our culture than from a different one.

Portuguese language is the mother tongue of my community; in the village school we also learned Guarani once a week. So, the few words I know in Guarani I learned from my family, my parents and grandparents spoke it fluently. I think that parents and school should teach Guarani to children since when they are little kids, like Kaigang villages have done to their kids.

Teachers were the people I really identified with in the city schools cause they were accessible and taught us well. The schoolmates, on the other hand, were the ones I was not very connected with due to their prejudice against Indigenous students, questioning our presences there and telling us to go back to our village, but that kind of behaviour has never made me to give up studying and I kept on.

I believe that the village school is very limited compared to the city school. Nowadays, I also realize that the city school does not prepare students to face Higher Education either.

I thought I could use Business Planning in order to disclose to society who the natives are, and what our culture is, contributing for our handicraft commercialization.

My main difficulties were to connect with the academic context for I did not have enough information to seek for resources to follow the activities, such as computer and internet

which were resources I had never had accessed to. I had to learn and get adapted to the non-indigenous practices, as the internet access, for example. Furthermore, I had no idea of what the course was, differently from my colleagues who already knew about the study field and the university operation.

At the beginning I was scared for even the professor explaining the class the subject, I was not able to grasp what he was trying to say, differently from the others more used to that language and terminology.

I realized that the treatment the program offered was that all students were at the same level. Although that is not my opinion because non-indigenous students are more prepared to speak, express their ideas, showing that they had gone through a different education.

All the classmates thought I was a foreigner: Peruvian, Boliviano or Paraguayan, but they did not think I was a Brazilian citizen and that I lived in the same country. I never hid from anyone I was an Indigenous, though.

I never took part in any research group. I just attended academic monitoring.

If I could propose changes for the course or program, I would suggest that professors were more open-minded to deal with Indigenous students, with the ones who are different, being more human like.

I have never had the chance to take part in an academic circuit, besides I have thought of that. Being an intellectual in the academic context I a very large step for a native, showing his/her ability to be a researcher as well.

If we look at the real native world today, some things need to be changed. We are not supposed to change the village, but to change “up there”, being present and showing that you are “up there”. If we just sit and stay in the village we are disconnected with the politicians who could improve our village.

We have to find a way to keep someone “up there” (in the spheres of the Legislative, Judicial and Executive Powers) and to keep the community on, but we should not forget that we are Indigenous, a vicarious people who need help.

Now, in this new university, I have good expectations because the environment seems to be more pleasant and simpler than the previous one.

Now, I will state the most relevant passages of this article in relation to what has been argued also by the authors. Firstly, the scholars argue that the fact that Alex was married “is a way to reassure his ethnic-communitary belonging” (p.944). Secondly, the fact that Alex comes from a leadership family who, like others *Guaraní* families, “prepare strategically their kids to occupy the university (AMARAL, 2010). Thus, the university becomes a strategy of maintaining the leadership *status* in the indigenous lands”. Thirdly,

another important aspect is the importance of the higher education to prepare Indigenous students to be interlocutors between their community, the State and other institutions. Finally, the scholars call for a necessity to build a dialogue between Indigenous communities' interests and State in its different power sphere. Also, I would argue that the student's narrative shows that Indigenous academic students' fragilities and probably other public school students' too. The intent of this study is to prepare indigenous students as interlocutors between their community, the state and other institutions and the entrepreneurial intent in an academic student.



## Conclusion

Language is the key to inclusion. Language is at the centre of human activity, self-expression and identity. Recognizing the primary importance that people place on their own language fosters the kind of true participation in development that achieves lasting results<sup>29</sup>.

The aim of this thesis was to analyse the evolution of language rights made for indigenous peoples in Brazil. In this regard I have looked at the concept of indigenous peoples as a distinct legal category and as an operational concept. For this reason, I have tried to find the link between linguistic rights and human rights by using a number of different sources from UN and other institutions. After that, I have tried to find to what extent fulfilling language rights in the public sphere, such as education, improves the linguistic standards of indigenous peoples. In this regard, it is important that public institutions help indigenous people preserve their traditional ways of living and their cultural identities.

Language is a fundamental tool for indigenous community's self-identification around the globe. The link between language and culture consists on approaching linguistic right; this is immediately clear so language is fundamental for indigenous peoples. So, it could be stated that the following equation is at the core of my thesis: culture + language = identity.

Moreover, in this thesis, I have tried to prove that participation and inclusion of minorities in public life is essential in order to fulfil indigenous rights. In this view, it has to be noted that protection, respect, fulfilment of linguistic human rights for indigenous

---

<sup>29</sup> UNESCO, Why Language Matters for the Millennium Development Goals (Bangkok: UNESCO, 2012).

peoples at the national and substantial level is fundamental; to do so, in this work I have tried to affirm this view by using a number of different sources. Tradition, culture, lands, beliefs must not be ignored but preserved.

In the last chapter I have tried to report some examples of inclusion projects made by the Brazilian government. I have decided to report them to look at the actual effect of government policies on indigenous languages. As De Varennes states, on one hand, the importance of indigenous peoples is reflected in legislation, policies and practices. On the other hand, those aspiration of indigenous peoples to exercise control over their own institutions, ways of life and economic development includes the maintenance of and development of their identities, languages and religions. Therefore, institutional assistance is essential in order to develop and promote indigenous language and save those that are considered endangered languages such as Guaraní.

Also, those projects developed in schools and universities are made to affirm the importance of linguistic diversity seen as a key concept for the revitalization of endangered languages because in this way they become language of prestige. By illustrating these projects such as those carried out by the Museu do Índio or the narration of the Guaraní student, I have tried to show the actual efforts made by the government in favour of the preservation of linguistic diversity.

In conclusion, it is essential to make some general considerations. It has to be argued that nowadays it would be essential to create a basis for social recomposition in order to avoid the internal contradictions of the indigenous society as well as those of the mainstream society. It is true that segregation and oppression led to creation of language rights; however, the intention to preserve those endangered languages does not have to lead to any kind of social isolation.

## References

- Lenzerini, Federico. "The Trail of Broken Dreams: The Status of Indigenous Peoples in International Law" in *Reparations for Indigenous Peoples: International and Comparative Perspectives*, New York, Oxford University Press Inc., 2008
- Castellino, Joshua. Gilbert, Jérémie. *Self-Determination, Indigenous Peoples And Minorities*, Macquarie Law Journal, Vol 3.  
<https://www.mq.edu.au/public/download/?id=16260>
- Dos Anjos Filho, R.N. "Breve balanço dos direitos das comunidades indigenas: alguns avancos e obstaculos desde a Constituicao de 1988", *Revista brasileira de Estudos constitucionais*, 2:8 (2008), quoted in Mandado de seguraça PEC 215 2000
- Tove Skutnabb-Kangas, Tove & Phillipson Robert in collaboration with Mart Rannut. *Linguistic human rights: overcoming linguistic discrimination*; Berlin; New York, Mouton de Gruyter, 1994
- Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. Verso, London, 1991.
- Lanni, Sabrina. *I diritti dei popoli indigeni in Latino America*. Edizioni Scientifiche Italiane, 2011.
- UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP) (2007)
- Merriam Webster Dictionary: <https://www.merriam-webster.com/dictionary/indigenous>
- [www.johansandbergmcguinne.wordpress.com/official-definitions-of-indigeneity](http://www.johansandbergmcguinne.wordpress.com/official-definitions-of-indigeneity)

-CambridgeDictionary:

<https://dictionary.cambridge.org/it/dizionario/inglese/indigenous?fallbackFrom=english-italian>

-Kingsbury, Benedict, “Reconciling Five Competing Conceptual Structures of indigenous Claims in International and Comparative Law” (2001) 34 *New York University Journal of International Law and Politics* 189 in Castellino, Joshua. Gilbert, Jérémie. *Self-Determination, Indigenous Peoples And Minorities*. Macquarie Law Journal, Vol 3, pg. 156. 2003

- Guidelines on Indigenous peoples’ issues, United Nations Development Group, New York and Geneva, 2009, available at:

<http://www.ohchr.org/EN/Issues/IPeoples/Pages/UNDGGuidelines.aspx>.

-ILO Convention 169 available at:

<http://www.ilo.org/english/convdsp1.htm>

- Wright, Tomaselli, Ordóñez Ganoza. “Introduction to the Special Issue”, *Indigenous Policy Journal*, Vol. XXIV, No. 4 (Spring 2014), pp.1-3

- Guidelines on Indigenous peoples’ issues, United Nations Development Group, New York and Geneva, 2009, available at:

<http://www.ohchr.org/EN/Issues/IPeoples/Pages/UNDGGuidelines.aspx>

- Crawford, James. “The Right of Self-Determination in International Law: Its Developments and Future 2001” in Philip ALSTON (ed.), *Peoples' Rights*, 2001

- Poggeschi, Giovanni. *I diritti linguistici. Un'analisi comparata*, Carocci, Roma, 2010

-Arzoz, Xabier. “The Nature of Language Rights”, *JEMIE* 6 (2007) by European Centre for Minority Issues

- Phillipson, Robert and Skutnabb-Kangas, Tove. Linguistic rights and wrongs. In Skutnabb-Kangas, Tove and Phillipson, Robert (eds) (2017). *Language Rights*. London/New. York. Series Critical Concepts in Language Studies. 4 volumes. In Volume 2: Language Policy in Education: Violations or Rights for All?

- Handbook by the United Nations Special Rapporteur on minority issues ed. by Izsák-Ndiaye (2013) available at:

[www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx](http://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx)

- <https://www.britannica.com>

- Kymlicka, Will. *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship*. Oxford University Press. 2001

- Fernandes Sá Junior, Adalberto and Aparecida dos Santos, Gislene. “Between Freedom and Culture: How should the State treat Indigenous Peoples?”, *Rev. Direito Práx.*, Rio de Janeiro, Vol. 08, N. 04, 2017, p. 2542-2573.

- 2008 report of OHCHR available at:

[http://www.un.org/esa/socdev/unpfii/documents/EGM\\_IL\\_OHCHR.doc](http://www.un.org/esa/socdev/unpfii/documents/EGM_IL_OHCHR.doc).

-Mc Dowell Santos, Cecilia. “Transnational Legal Activism and the State: Reflections on Cases against Brazil in the Inter- American Commission on...”, *Sur - Revista Internacional de Direitos Humanos*, 7:4 (2007), pp.28-59

- <https://www.oas.org>

-Mc Dowell Santos, Cecilia. “Legal Dualism and the Bipolar State: Challenges to Indigenous Human Rights in Brazil”, *Latin American Perspective*, Issue 207, Vol. 43 No. 2, March 2016, 172–189

-<http://www.funai.gov.br/index.php/estrutura-organizacional/estatuto-da-funai>

-<http://linguistics.byu.edu/classes/Ling450ch/reports/Guarani1.html>

- <http://www.museudoindio.gov.br/educativo/pesquisa-escolar/243-os-guarani-no-rio-de-janeiro>

- Survival Report Available at: <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/indigenous-peoples-brazil-guarani-case-un> and

[http://assets.survivalinternational.org/documents/207/Guarani\\_report\\_English\\_MARCH.pdf](http://assets.survivalinternational.org/documents/207/Guarani_report_English_MARCH.pdf)

-Gomez Rendon, J.A. *Typological and social constraints on language contact: Amerindian languages in contact with Spanish*, LOT, Utrecht 2008

- [museudoindio.gov.br](http://museudoindio.gov.br)

- De Varennes, Fernand. “Language, Rights and Opportunities: The Role of Language in the Inclusion and Exclusion of Indigenous Peoples” Draft 2012 on Submission on the role

of languages and culture in the protection and promotion of the rights and identity of indigenous peoples to the UN Expert Mechanism on the Rights of Indigenous Peoples

-Hornberger, Nancy H. "Language policy, language education, language rights: Indigenous, immigrant, and international perspectives", *Language in Society*, 27 (1998), Cambridge University Press, 439-458

□Pascoal Cassandre, Marcio. Do Amaral, Wagner, R. and Da Silva, Alexandro. "I, Alex, from the Guaraní Ethnic Group: the Indigenous student's testimony of an administration undergraduate program and his double belonging", *Cadernos Epabe.BR*, 14:4, Article 5, Rio de Janeiro, Oct./Dec. 2016

- Frühauf Garcia, Elisa "O projeto pombalino de imposição da língua portuguesa aos índios e a sua aplicação na América meridional", *Tempo* (2007), pp.23-38

- Ana Suelly Arruda Câmara CABRAL, Andérbio Márcio Silva MARTINS, Beatriz Carretta CORRÊA DA SILVA, Sanderson Castro Soares de OLIVEIRA, "The historical linguistics of the Indigenous languages of Brazil, by Aryon Dall'Igna Rodrigues: perspectives, theoretical models and findings", *D.E.L.T.A.*, 30 especial, 2014 (513-542)

-Rodrigues, Anyon D., "On the influence of indigenous languages on Brazilian Portuguese", *D.E.L.T.A.*, 30 especial, 2014 (443-446)

## Appendix

# United Nations Declaration on the Rights of Indigenous Peoples

United Nations

A/RES/61/295

---



**General Assembly**

Distr.: General  
2 October 2007

---

**Sixty-first session**

Agenda item 68

**Resolution adopted by the General Assembly on 13 September 2007**

*[without reference to a Main Committee  
(A/61/L.67 and Add.1)]*

**61/295. United Nations Declaration on the Rights of  
Indigenous Peoples**

*The General Assembly,*

*Taking note* of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,<sup>30</sup> by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

*Recalling* its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

*Adopts* the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

*107th plenary  
meeting 13  
September  
2007*

**Annex United Nations Declaration on the Rights of  
Indigenous Peoples**

**The General Assembly,**

*Guided* by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

---

<sup>30</sup> See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53)*, part one, chap. II, sect. A.



*Affirming* that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

*Affirming also* that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

---

*Affirming further* that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

*Reaffirming* that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

*Concerned* that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

*Recognizing* the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

*Recognizing also* the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

*Welcoming* the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to

bring to an end all forms of discrimination and oppression wherever they occur,

*Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

*Recognizing* that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

*Emphasizing* the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

*Recognizing in particular* the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

*Considering* that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

*Considering also* that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

*Acknowledging* that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights<sup>31</sup> and the

---

<sup>31</sup> See resolution 2200 A (XXI), annex.

International Covenant on Civil and Political Rights,<sup>2</sup> as well as the Vienna Declaration and Programme of

---

Action,<sup>32</sup> affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

*Bearing in mind* that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

*Convinced* that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

*Encouraging* States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

*Emphasizing* that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

*Believing* that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

---

<sup>32</sup> A/CONF.157/24 (Part I), chap. III. <sup>4</sup> Resolution 217 A (III).

*Recognizing and reaffirming* that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

*Recognizing* that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

*Solemnly proclaims* the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

## Article 1

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<sup>4</sup> and international human rights law.

## Article 2

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.

---

### Article 3

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.

### Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

### Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

### *Article 6*

Every indigenous individual has the right to a nationality.

### Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. 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.

### Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration;
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

## Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

## Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

## Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property

taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

## Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

## Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

## Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

## Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

## Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

## Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

## Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to



maintain and develop their own indigenous decision-making institutions.

### Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

### Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

### Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

### Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

## Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

## Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

## Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

## Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due

respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

### Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

### Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

### Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

## Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

## Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

## Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

## Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does

not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

### Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

### Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

### Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

### Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

### Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

### Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

### Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

### Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

### Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the

provisions of this Declaration and follow up the effectiveness of this Declaration.

### Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

### Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

### Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

### Article 46

1. 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 political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

## Summary in Italian

Lo scopo di questa tesi è di affermare l'importanza della conservazione delle lingue indigene. La lingua è uno dei tanti fattori che contribuiscono alla costruzione dell'identità etnica, perché "Quando affermiamo categoricamente che tutti gli individui e i gruppi dovrebbero godere di LHR universali [i diritti linguistici dell'uomo], questa affermazione deve essere vista alla luce della realtà politica di disuguale accesso al potere ". Prendendo in considerazione diverse fonti, ho cercato di affermare l'importanza delle lingue indigene come una questione di identità. A questo proposito, particolarmente utile è questa citazione dell'opera significativa di Benedict Anderson *Imagined Communities* (ed. 1991: 154)

[...] amor patriae non differisce in questo rispetto da altri affetti, in cui c'è sempre un elemento di affettuosa immaginazione [...] Ciò che l'occhio è per l'amante - quell'occhio particolare, ordinario con cui è nato - il linguaggio - qualunque storia linguistica abbia fatto la sua lingua madre - è per il patriota. Attraverso quella lingua, incontrata al ginocchio della madre e separata solo dalla tomba, il passato viene ristabilito, le fraternità vengono immaginate e il futuro sognato.

Questa citazione è importante in quanto si riferisce alle lingue e all'idea della lingua materna per spiegare la stretta relazione tra lingua, identità e nazione. Tuttavia, questa stretta relazione non deve essere confusa con l'idea di nazionalismo, perché la concezione di un forte senso di nazione, come la storia ci ha mostrato, ha sempre portato a deviazioni estremamente pericolose come il nazismo o il fascismo.

La situazione delle popolazioni indigene solleva una serie di importanti domande sul presupposto della giustizia sia interna che internazionale, come ad esempio la relazione tra le pretese di individui, comunità e stati; la natura della sovranità; la sistemazione delle differenze culturali e l'applicazione della non discriminazione in base alla lingua.

Quindi nel presente lavoro ho cercato di affermare il ruolo chiave delle lingue e della cultura nella protezione e promozione dei diritti e dell'identità delle popolazioni indigene. Ho cercato di analizzare come queste siano state escluse le preferenze o le restrizioni



linguistiche, o in altri casi utilizzati per includere popolazioni indigene in vari ambiti della società, e questo sarà chiaro nel terzo capitolo.

Nel primo capitolo del presente lavoro, ho cercato di fare una panoramica sui diritti dei popoli indigeni affermando la natura e la portata dei diritti delle popolazioni indigene come diritti umani, analizzando i loro diritti linguistici come mezzo per rafforzarli piuttosto che per escluderli. Va ricordato che la Dichiarazione dei diritti delle popolazioni indigene del 2007, adottata dalle Nazioni Unite, non contiene alcuna dichiarazione su cosa debba intendersi per "popolo indigeno", lasciando ai singoli Stati il potere di decidere in merito la definizione da cui l'attribuzione di diritti che non sono preclusi alle persone non indigene. Tuttavia, i dati linguistici e la preesistenza della colonizzazione sono decisivi per qualificare coloro che appartengono o no ai popoli indigeni (Lanni 2011: 312).

Pertanto, ho cercato di spiegare a fondo la definizione di indigeno; dalla definizione etimologica del sostantivo a quella legale. Poiché esistono diverse definizioni di popolazioni indigene, ho selezionato quelle che ho trovato più chiare su tutte le altre da una serie di fonti diverse; il dizionario di Cambridge e opere di studiosi. Ho cercato di raccogliere diverse definizioni dell'espressione popoli indigeni come categoria legale. In secondo luogo, stabilirò la differenza tra le popolazioni indigene e le minoranze. Inoltre, ho cercato di fornire una breve descrizione storica dei diritti delle popolazioni indigene. Successivamente, ho descritto l'importanza della Convenzione dell'OIL, l'UNDRIP (Dichiarazione universale sul diritto degli indigeni) e altri strumenti giuridici. Poiché è considerato uno dei diritti più importanti relativi alle popolazioni indigene, ho descritto il diritto all'autodeterminazione. Infine, ho presentato i diritti dei popoli indigeni.

Le norme relative a questi tipi di diritti linguistici sembrerebbero anche indicare che anche nel caso di un linguaggio usato da un numero relativamente basso di individui, uno stato può essere obbligato a fornire risorse per il suo mantenimento. Ancora più importante, si potrebbe affermare che ci sono in effetti tre approcci e risposte molto diversi alle lingue e alla cultura osservabili nei documenti internazionali ed europei:

1. Protezione delle lingue a rischio di estinzione
2. Strumenti sui diritti umani
3. Protezione o promozione della diversità linguistica

Mentre il primo capitolo si concentra sulle leggi che regolano i diritti linguistici e quelle che regolano i diritti dei popoli indigeni, il secondo capitolo espande questi argomenti guardando ai diritti linguistici delle popolazioni indigene da una prospettiva sociologica. In tal modo, ho trovato la risorsa più utile nelle opere di Anderson, Kymlicka e Sully sulle popolazioni indigene in generale.

Nel secondo capitolo ho poi cercato di fornire una ragione più perspicace sul perché sia importante preservare le lingue indigene in generale. Per quanto riguarda il Brasile, il caso di studio della mia tesi, cercherò di spiegare la natura dei diritti linguistici delle popolazioni indigene in primo luogo fornendo una breve panoramica storica su di essa, e in secondo luogo spiegando lo stato attuale dei diritti linguistici dei popoli indigeni in Brasile, considerando i concetti di multiculturalismo e dualismo indigeni. Infatti, nel 2007, dopo 20 anni di discussione, le Nazioni Unite hanno adottato l'UNDRIP approvato da una maggioranza assoluta di 144 stati. La necessità di attuare l'UNDRIP è dovuta al fatto che molte comunità indigene come i Guarani hanno sofferto e continuano a soffrire. Questi sofferenze che si trovano a subire sono in violazione della Costituzione brasiliana, dello Statuto indiano del Brasile, della Dichiarazione delle Nazioni Unite sui diritti dei popoli indigeni, della Convenzione internazionale sull'eliminazione di tutte le forme di discriminazione razziale e della Convenzione 169 dell'Organizzazione internazionale del lavoro (OIL), alla quale il Brasile è un firmatario.

Nel terzo capitolo ho analizzato il caso di studio della mia tesi, che è la lingua guaraní e la necessità di promuovere la diversità linguistica. Prima di iniziare, è necessario sottolineare il fatto che mi concentrerò sulla lingua Guarani in Brasile, non in Paraguay, dato che Guarani è la lingua ufficiale del Paraguay (Gomez Rendon 2008: 206), dove "solo con la caduta della dittatura di Stroessner in Nel 1989 e con la pubblicazione di una nuova Costituzione nel 1992, Guarani ottenne il suo status ufficiale alla pari con lo spagnolo ". In primo luogo, mi sono concentrata sulle principali caratteristiche della popolazione Guarani e un numero di fatti storici pertinenti ad esso. Per spiegare meglio l'importanza di preservare questa comunità indigena, mi sono soffermata sull'attuale condizione di un Guarani-Kaiowá, che è uno dei gruppi etnici più minacciati del Brasile, prendendo in considerazione un rapporto di Survival, una ONG il cui scopo principale è

quello di sensibilizzare le comunità indigene in via di estinzione provenienti da tutto il mondo. In secondo luogo, nel terzo capitolo mi sono concentrata sulla lingua guaraní in generale, presentando le caratteristiche principali di questa lingua in Brasile analizzandola in termini sociolinguistici. Infine, ho provveduto a descrivere quella che è la sezione più significativa della mia tesi. Ho spiegato perché è importante preservare, riconoscere e promuovere le lingue indigene in via di estinzione considerando una serie di progetti educativi che sono stati realizzati da diverse organizzazioni. Questi consistono in iniziative del Museu do Índio situate a Rio de Janeiro, pratiche di insegnamento per gli indigeni e infine una testimonianza di uno studente Guaraní che afferma l'importanza dell'educazione indigena. Queste iniziative affermano il potenziale delle lingue indigene come lingue di "progresso" e opportunità. Queste organizzazioni indigene sono basate su un'idea di sviluppo che, invece di essere radicata nei parametri della crescita economica, si basa sui principi di equità, solidarietà e sostenibilità.