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**"OIL EXPLOITATION OF BLOCK 43  
ISHPINGO FIELD - 2020: AN ANALYSIS OF  
THE INTERVENTION OF INTERNATIONAL  
ORGANIZATIONS FOR THE PROTECTION  
OF PEOPLE'S RIGHTS IN TAGAERI  
ISOLATION"**

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## DEDICATION

The country's indigenous nationalities, and especially the indigenous communities that inhabit the  
Ecuadorian

Amazon. To the Tagaeri - Taromenane isolated peoples, and the other isolated peoples of whom  
there is no record. To all environmental and human rights activists. Thank you for your courage  
and stamina.

To my grandfather Jaime, for always trusts on me. To my grandmother Italia, for her unconditional  
love  
and support.

To my mom, María Auxiliadora, for teaching me to see the world from a critical perspective and for  
helping me  
become  
the person  
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## SUMMARY

The purpose of this work is to identify the different International Instruments of indigenous rights, for the protection of the rights of the Tagaeri people in isolation, which are violated by the oil activity in Block 43 - Ishpingo Field. For this, an investigation was carried out on the current oil activity in Block 43 and the extraction of crude oil in the Ishpingo field for the year 2022, on the extraction activity and on the consequences this extraction causes to the Tagaeri people due to the proximity of the Intangible Zone to oil platforms A and B located in Ishpingo. Once these points have been raised, we proceed to indicate that International Instruments the Ecuadorian State can use in conjunction with national policies to reinforce the protection of the rights of the Tagaeri people in isolation.

**Keywords:** indigenous communities, collective rights, oil exploitation, instruments National, International Organizations, indigenous people in voluntary isolation, territories, Intangible Zone.



## **ABSTRACT**

The purpose of this work is to identify the different International Instruments of indigenous rights, for the protection of the rights of the Tagaeri peoples in voluntary isolation, which are violated from the oil activity in Block 43 - Ishpingo Field. For that, an investigation was carried out about the current oil activity in Block 43 and the oil extraction in the Ishpingo field that will happen in the year 2022. Also, the consequences that the oil extraction causes to the Tagaeri people were investigated due to the proximity of the Intangible Zone to the A&B oil platforms that are in the Ishpingo field. After pointing out the risks that oil extraction poses to the rights of the Tagaeri people in voluntary isolation, this work reviews the International Instruments the Ecuadorian State can employ together with national policies to reinforce the protection of their rights.

## INTRODUCTION

The objective of this research work is to determine which International Instruments can be used by the Ecuadorian State to reformulate its actions with the peoples in voluntary isolation, and especially the Tagaeri people, since there is already an oil activity that is aimed at the extraction of crude in Block 43 – Ishpingo field by the year 2022, a territory close to the Buffer Zone (BZ) and, therefore, to the Tagaeri – Taromenane Intangible Zone (TTIZ).

To establish that International Instruments could be of support for the Ecuadorian State, an investigation must first be carried out to find out how oil exploitation has developed in the country and subsequently understand what the current situation of the Tagaeri people in isolation is. Likewise, an inquiry into the different International Instruments, including NGOs, is necessary to know what they pose about indigenous peoples and how their provisions, projects and programs can be merged with internal regulations and programs in the country to improve the protection of indigenous peoples. In addition, it is necessary to know if these Instruments have been ratified by Ecuador so that there is an obligation for what they dictate to be fulfilled, and that raises the Constitution about the intervention of International Organizations in the country. On the other hand, it is extremely important to know what the Ecuadorian State establishes in its Constitution, internal regulations, and government institutions on the rights of indigenous peoples in voluntary isolation (IPVI) and the extraction of non-renewable natural resources, to interpret how it fulfils the role of protecting the Tagaeri population in isolation and decipher what it is doing incorrectly, which is why there have been violations of the rights of peoples in isolation. Likewise, now that we know how oil exploitation is developing in the Amazon and specifically in the Ishpingo field, the consequences that this activity causes to the isolated Tagaeri people should be pointed out. In this way, it will be possible to specify the needs of these people and understand how the State could propose policies that protect the rights of indigenous peoples in voluntary isolation. Finally, once the entire national and international panorama surrounding the Block 43 oil project - Ishpingo field has been understood and how this would affect the isolated Tagaeri people, it will proceed to present that International Organizations that can be applied by the Ecuadorian State for the correct management of the Tagaeri people rights. In the end, you must proceed to make concise proposals based on international regulations and your projects and programs.

Regarding the methodology, the following research will be done through a qualitative method.

Therefore, methodological strategies of qualitative research were used that is, bibliographic reviews collect and develop summaries of different investigations and articles related to the subject, historical method to analyze the history of oil exploitation and the Tagaeri people in isolation to understand what is happening in the present, analytical method to dismember the causes and effects of oil exploitation and the rights of the Tagaeri people through the analysis of different facts to better understand the issue and have an objective investigation, interviews to know first – hand what is happening and how the problem can be solved, given that there is not extensive information on the subject, interviews with people with different perspectives are helpful and the hermeneutical method to interpret, or in this case, propose national regulations that start from international regulations based on the information acquired the different resources aforementioned.

The research, and later the proposals for this social problem, is carried out because so far there are few investigations, articles, books and even news about the peoples in voluntary isolation and the problems that they have due to the exploitation of non-renewable natural resources near his territory. In addition, the Tagaeri people in isolation are the uncontacted group with the smallest population, and it is even thought that only women who coexist with the Taromenane people live in isolation. Likewise, for a few years, the issue of oil exploitation in the Yasuní ITT has been controversial, but there has not been a complete investigation of the problems that exist in the remote Ishpingo field. Therefore, it has been necessary to develop this research not only to propose solutions for the protection of the Tagaeri people in terms of oil exploitation near the ITTA, but it is also appropriate to capture the history of these people, because if they were to disappear one day without a trace, due to their isolation, few would know of their important existence.

The structure of the following work consists of four chapters. The first synthesizes the history of the Amazonian communities and the Tagaeri people. It also analyzes the Constitutional aspects related to the rights of indigenous peoples and the intervention of International Organizations in the country to protect their rights. The second chapter focuses on introducing the different International Instruments, agreements, declarations, International Organizations and NGOs, whose objective is the protection of human rights, rights of indigenous peoples and rights of nature. In addition, this section presents the analysis of causes related to the exploitation of non-renewable natural resources and the violation of the rights of indigenous nationalities. The third chapter widely revises oil exploitation in the Amazon, the Yasuní ITT, internal policies on the extraction of non-renewable natural resources, and especially how these activities affect indigenous peoples. Finally, the fourth and last chapter mainly presents the oil exploitation in the Ishpingo field, the consequences of this activity for the Tagaeri people, and, considering the past investigations, includes a series of proposals so that the State has better management of the protection of the rights of the Tagaeri people in isolation based on International Instruments and especially on how these activities affect indigenous people.

# **Chapter 1**

## **NATIONAL PROTECTION OF THE RIGHTS OF PEOPLES AND INDIGENOUS NATIONALITIES**

### **1.1 Indigenous peoples and nationalities in the Ecuadorian state: towards the consecration of their rights**

#### **1.1.1 Description of Amazonian communities**

This chapter will address important information about the Amazonian indigenous peoples and nationalities of Ecuador, emphasizing the uncontacted Tagaeri people since the research is based on it. In the first instance, ethnographic, cultural, religious, and historical aspects will be exposed to later reveal how these indigenous nationalities together with the uncontacted peoples achieved the constitutional recognition of their rights.

Ecuador is a country located in the northwest of South America, it has an Amazonian area that extends over 120,000 km<sup>2</sup>, and that is, it comprises 48% of the national territory (López, 2019). Within this Amazonian area made up of the provinces of Sucumbíos, Napo, Orellana, Pastaza, Morona Santiago, and Zamora Chinchipe, it houses ten indigenous nationalities which are: Achuar, Andoa, A 'Cofán, Waorani, Kichwa, Secoya, Shuar, Siona, Shiwar and Zápara (CONAIE, 2014).

#### **Achuar community**

The Achuar nationality lives in the provinces of Pastaza and Morona Santiago with a population of 7,865 people, organized in turn into sixty-eight communities (INEC, 2010). In addition, this is a town that after the establishment of borders, between Ecuador and Peru in 1941, was divided into two segments between both countries (Ministry of Health of Peru, 2019). On the other hand, the Achuar have traditionally been recognized for being economically self-sufficient based on relationships with the environment such as fishing, hunting and agriculture to satisfy their basic needs. It should also be noted that both fishing and hunting are activities carried out by men, and farm management is an exclusive activity for women (Medina, 2002).

At present, despite having had a dispersed settlement, they are a group of semi-nucleated or densely nucleated native communities. In the same way, the presence of the State and the missions have given way to the introduction of systems of education, health, and western production that have

had an impact on the culture and cosmovision (worldview) of this community. The Achuar have a worldview in which nature is the center of life and therefore both women and men are on the same level as other beings that inhabit the earth, which is why the ideas of culture and society for them do not make sense since this division does not exist. Likewise, for this people all beings possess human characteristics and the laws that govern them are almost identical to those of human society and, the human being and most animals (except for fish), plants and other beings of nature are people with a soul and autonomous life (Descola, Achuar Cosmovision: nature, environment and climate cycle, 1996).

### **Andoa Community**

The Andoa are a community located southeast of the Pastaza province in the Montalvo parish on the banks of the Bonbanaza River, on the international border with Peru, it should be noted that it is a binational nationality, since they are found in both Ecuador and Peru. This nationality is grouped into six communities: Puka Yaku, Jatun Yaku, Santa Rosa, Killu Allpa, Ashari and Montalvo, and its approximate population is 1076 inhabitants in 2010 (NAPE, 2010). As a result of the end of the Ecuador-Peru war, several Andoa families were separated and this weakened them, making them look defenseless, for that reason they consolidated as a sedentary population and became prey to diseases, which reduced the number of settlers. In the same way, being a weak community helped them to be easy subjects for ethnic mixing, acculturation, and loss of language, for these reasons they were not part of Ecuadorian history until 2013 when the Andoa nationality was officially recognized by the State through the constitution of the organization Andoa Nationality of Pastaza Ecuador.

After seventy-seven years, in September 2008, the great Andoa population meeting took place in the commune of Puka Yaku where entire families reunited after being separated by imaginary jurisdictional boundaries that are not part of their worldview. On the other hand, the main sources of population sustenance are hunting, fishing, farmland, ceramics, weaving, wild fruits and the raising of minor species; The work in the Andoa community is established by sex, the men oversee basket weaving, fishing and community work, and the women are taking care of the children, raising small animals, weeding the farm, weave the ceramics and make the chicha. This cultural knowledge about ceramic weaving has been transferred to subsequent generations and other peoples such as the Kichwa nationality because of ethnic miscegenation; the activity has helped preserve vestiges, practices, and knowledge of Andoa art, culture, and technologies (NAPE, 2010).

At present, this nationality is represented by the NAPE, which is the authority of the Governing Council. This group is made up of nine members: president, vice president, territory leader, education,

women and family, economy, health, communication, and youth. The maximum authority is the Congress that every three years is carried out to define policies that help the Andoa, these policies are applied and controlled by the Governing Council that is elected at the same event, also the Council oversees management external authorities before provincial authorities, central government, and national and international entities (NAPE, 2010).

Finally, the location where the Andoa community sits is privileged because it has beneficial and diverse environments that have a variety of ecosystems and habitats useful for the adaptation of both flora and fauna species, it also has fertile soils and abundant mineral resources. This wealth is currently threatened by poor management of the environment by the Andoa communities and military settlements, also by external pressure from the government or oil companies that want extractives policies for its use and enjoyment; An interesting fact is that the Andoa community is located within blocks 26 - 34 - 35 of Petroecuador, which has tendered for short-term projects in these areas (NAPE, 2010).

### **Community A 'Cofán**

The A 'Cofán nationality, like the previous ones, is called binational since it has a presence in Ecuador and Colombia. In Ecuador they live in the province of Sucumbíos along the San Miguel, Guanúes and Aguarico rivers, that is, they are found in four cantons of the province, such as Lago Agrio (Dureno and Jambelí parishes), Cascales (El Dorado de Cascales), Cuyabeno (Cuyabeno parish), Sucumbíos (La Bonita parish) and have a population of approximately 1,485 people (IWGIA, 2019). The parishes already mentioned are located within the Cayambe - Coca Reserve, the Cuyabeno Wildlife Production Reserve, the Alto Bermejo Protected Forest, and the Sumaco National Park; all of these are part of the National System of Protected Areas of Ecuador (SNAP) (Méndez & Viera, 2011).

This nationality is typically dedicated to fishing, hunting and agriculture based on the planting of bananas, cassava, corn, cocoa, coffee, and beans for subsequent sale in nearby markets; In general, the community has social gardens, which is where they get the products for sale, but they also have small gardens for each family that are used for their food and are cared for by the women. Likewise, they make family crafts such as spears, necklaces, and accessories; this is an activity that helps several families with economic stability (Navarrete, 2016).

The A 'Cofán culture is governed by spiritual laws where the most important are respect, nature, the protection of life and the underground world; it is thus that the so-called grandparents of the community are the ones who receive the advice of the spirits to advise the youngest and one of the gods is the well-known Coan who represents the underground life and when it is altered she spills her blood that for this culture is oil (Cofán Nationality, 2010). Also, they distinguish three planes in their

lives that are the celestial one, where the stars live; the terrestrial, where nature, rivers, mountains are found; and the underground where the Cuncua live. Because of their worldview and location, they are known as the guardians of nature, it is for this reason that they are against those who want to destroy their forests.

At the same time, this town is led by the religious and political leader, shaman, who oversees fostering unity within the community among all groups. Similarly, they are known for tirelessly fighting for their rights and those of the place where they live, for this reason, they formed the Indigenous Federation of the Cofán Nationality of Ecuador and are active members of CONFENIAE and CONAIE (Jacome, 2016).

Finally, it is useful to note that in recent times there have been processes of acculturation within the community that as a result has been changing in its culture, traditions, and beliefs, so that at their life depends directly on government decisions and the worldview it has had structural changes. In 2013 Petro Amazonas together with the government of Rafael Correa, as social compensation, built homes and millennium schools in exchange for entering their territories to carry out oil exploitation, regardless of whether the Cofán nationality had property titles to those lands, however, all this for them was a culture shock since the houses were not suitable for their way of life and the schools were Western educated. However, FEINCE reached an agreement with the State so that in their schools' education is mixed and Cofán language and traditions can be taught along with basic subjects in Spanish (Morán, 2019).

### **Waorani Community**

The Waorani community is located in the provinces of Orellana (Dayuma, Tiputini, Yasuní, and Sta. María de Huiririma parishes), Napo (Chontapunta parish) and Pastaza (Curaray parish). At the same time, within these towns there are approximately 3,000 Waoranis that are disperse in different subgrupos such as: Toñampare, Quenahueno, Tihueno, Quihuaro, Damuintaro, Zapino, Tigüino, Huamuno, Dayuno, Quehueruno, Garzacocha, Quemperi, Mima, Caruhue, Tagaeri and Taromenane (Confederation of Indigenous Nationalities of Ecuador, 2014). It is for the latter that the information from the Waorani community is a significant part of this study. In addition, these territories are within the Yasuní National Park, the Yasuní Biosphere Reserve, the Taromenane - Tagaeri Intangible Zone, and the Waorani Ethnic Reserve, therefore they form an area of 678,220 km<sup>2</sup> (Omari, Waorani Nationality: Past and Present, 2012).

The Waorani nationality was the Amazonian indigenous nationality that had the most territory in eastern Ecuador. However, in 1958 they decided to be contacted by the mestizos through an American missionary group, from that first contact the community experienced a change and a

difficult introduction into modern society. Thus, it has first been evidenced that their territories have been significantly reduced by oil extraction or colonial settlements, and the other territory has been affected by indiscriminate logging, which has brought them different internal problems between groups and external problems with the State. Also, for these reasons it is that two Waorani subgroups, Tagaeri and Taromenane, have rejected contact with the "outside" and increasingly enter the Amazon. About 62 years ago the Wao, as they are called, lived traditionally as nomadic gatherers and hunters who were grouped in small clans. With the arrival of the missionaries, communities were formed because they tried to group the Waorani into larger groups to convert them to Christianity (Amazon Frontlines, 2019).

Regarding their traditions and worldview, the Wao still preserve certain ancestral customs, for example, marriage by concession that occurs when a young man meets his girlfriend, her parents force them to marry; or it is still common for bigamy to exist, a man married to two or more women, and the levirate, which is when a man dies, his brother can marry the widow (Confederación de Nacionalidades Indígenas del Ecuador, 2014). Also, the ancient Wao say that they are descendants of the union of an agile and a jaguar that is why they do not hunt carnivorous predators or snakes because the latter is a bad omen. Regarding their worldview, there is no difference between the physical and spiritual world, because for them spirits coexist in daily life. What is more, it is necessary to add that, the Waorani have a remarkable knowledge of ecology and geography, for this reason, that between the years 2015 - 2017 the 26 Waorani communities of Pastaza met in collective work to understand and inform themselves about their territory and carried out the detailed mapping of 16 communities (180,000 hectares). The results they hoped for and achieved were protect and strengthen the Wao communities, that the new generations know how to locate themselves in their territory and pass this knowledge on from generation to generation, know which areas contain oil or minerals for in the future when they want to be exploited, know-how protect those lands, and finally, it is a map created by Waorani for their people because it collects history and culture (Nenquimo O., 2019).

Currently, the Waorani community has the highest internal body to represent the Byle Huaorani Council, which is the assembly of all groups, and as external representation to the Organization of the Waorani Nationality of the Ecuadorian Amazon created in the 90s; the Organization of the Waorani Nationality of the Ecuadorian Amazon is an active member of COFENIAE and CONAIE. On the other hand, the Wao was known to be nomads but today most of their groups, without considering the uncontacted, are sedentary and their economy is based on agriculture, fishing and hunting that are sold in nearby markets. The families also have their food gardens. Even though the Waorani do not agree with the exploitation of natural resources and considering that the Amazonian indigenous people are the poorest population in Ecuador.



Finally, it is important to emphasize that the Waorani have been fighting against the State and oil companies to protect what remains of their virgin territory. For example, in 2012 the State together with the Ministry of the Environment carried out an alleged consultation with the Waorani community to allow them to tender the oil block 22 in the province of Pastaza, but this was not possible first because according to Waorani representatives there was never such a They consult and that what their people tell them is that "white" people came to offer them houses, food, education, electricity and money in exchange for accepting that block 22 is exploited. Also, Oswaldo Nenquimo, activist for the Waorani defense, states that the Wao people do not recognize any block 22 because it is within the territory where they are settled, that what the government carried out was a workshop and that this is against what even the UN says about consultations with indigenous peoples (Nenquimo O., 2019). For these reasons, the Waorani community filed a lawsuit and protection activities in the Pastaza Judicial Branch against the Ecuadorian State alleging fraud and thus began a fight for their right to free, prior and informed consultation that ended on April 26, 2019, with a ruling in favor of Waorani nationality. Judge Esperanza del Pilar Araujo stated that “the State did not carry out prior consultation with them and, therefore, Block 22 —with a size close to 200,000 hectares and overlaps 16% with territories of 16 communities of this nationality— cannot be tendered for now, just like any other extractive project that wants to be developed there” (Cordona Paz, 2019). However, Nenquimo assures that the State and the Ministry of the Environment have not complied with the sentence or worse, they have not apologized to the Wao nationality but assures that his people will continue to fight and press so that no Amazonian indigenous territory is looted or betrayed (Nenquimo O., 2019).

### **Kichwa Community**

This is an indigenous community that is found both in the highlands and in the Ecuadorian Amazon, the Kichwa in the east are settled in the upper part of the provinces of Napo, Sucumbíos, Orellana, and Pastaza. This nationality is the most numerous among the Amazonian communities in several provinces, with 60,000 inhabitants grouped in 131 communities that are organized into 17 associations (Amazanga, 2012). The reason that this community is in two regions of the country is that when the first Spanish settlements occurred in the mountains, they treated the Kichwa as slaves, which is why large groups migrated to the Amazon in search of freedom (CONAIE, 2014).

Like most of the other communities, the Kichwa are cultivators, hunters, fishermen, artisans and work collectively such as mingas to build canoes and houses. In the same way, what they grow serves them not only for personal consumption, but they also sell in nearby markets where they also sell handicrafts that they make such as fans with feathers, pita, shigra de chambira, wooden spoons, baskets, necklaces, flutes made of guadua, chitter whisk and boa or deer leather drums (CONAIE,

2014).

The history of the Amazonian Kichwa nationality is interesting given that it originates from ethnic fusions resulting from migration, the mixture occurred between Zaparas, Tukano and Quijos tribal societies that gave way to the formation of two large cultural groups are the Kichwas Canelos and the Kichwas Quijos. The Canelos are the fusion of cultures from the east and southeast of the Amazon and are related to the Umawas, within this same group are the Kichwas Pastaza who are a population resulting from families that lost their ethnic identity at the time of Christianization from the Canelos and Achuar groups, when the Kichwa language was imposed by the missionaries. While the Quijos is in Tena, Arajuno and Archidona, and are apparent with the Curary Runa; Within this group are the Yumbos who are direct descendants of the Kichwas of the mountains, that is why they live in Calacalí, Mindo, Manegal, Nono and Lloa. It should be considered that, throughout the history of this community, identity is of the utmost importance and is manifested by identification with its history, the use of its language, belonging to the territory, its way of dressing, and its customs and traditions (Alvarado, 2012).

Finally, his worldview is divided into three areas where the different forms of life develop that are the Sacha, the Allpa and the Yaku that when these three worlds are related, they form the Sacha rune yachay understood as the global knowledge that allows coexistence between man and the beings of nature. Thus, Sacha is the space of the jungle where animals, plants, spirits live; Allpa is the dimension where agricultural activities are carried out; and Yaku is the river area where you can find fish, anacondas, or otters (Alvarado, and others, Cosmovisión The organization of space and time, 2012). In the same way, Kichwa society is based on two areas, the Ayllu and the Muntun; the first forms the family nucleus and the second is the whole family including the relatives. It should be noted that, for this community, the family is important and plays a fundamental role in the internal political structure, for that reason the llakta is the main organizational structure that integrates the people, families and authorities who are in charge of managing the order, justice and electing a yachak who will be the doctor and guide of the spiritual, social and cultural life both internal and external of the community, also will be the bearer of knowledge through the generations (Alvarado, et al., Community Organization, 2012). To end, currently, the Kichwa nationality is organized at both the regional and national levels, which is why they created the Confederation of Peoples of the Kichwa Nationality (ECUARUNARI) and at the national level they are part of CONAIE, FENOCIN, FEINE and FEI (CODENPE, 2009).

### **Secoya Community**

The Secoya indigenous nationality is part of the binational communities since they are found in both Ecuador and Peru; in Ecuador, they are in the province of Sucumbíos - Shushufindi canton in the parish of San Roque and in the Cuyabeno canton in the Tarapoa parish, that is, on the banks of the Aguarico rivers. These cantons are divided into three communities that are: San Pablo, Campo Eno and Siecoya Remolino, in addition, this community is considered an ethnic minority since there are only approximately 380 inhabitants (Vallejo, 2007). It could be said that its “legal” territory is 20,000 hectares and that it is surrounded by African palm plantations, oil wells and access roads for felling trees, although at the same time its territory was declared a Cuyabeno Wildlife Reserve (CONAIE, 2014) (Amazon Frontlines, 2019).

On the other hand, because of the Christianization of this nationality, the people began to unify and what are currently called centers were established, which gave way to the creation of an organization and therefore to political leadership. In these times, the community leadership has a community board of directors called the Secoya Indigenous Organization (OISE) that is made up of a president, vice president, treasurer, trustee, and members, who oversee carrying out internal and external relations with state agencies, companies, oil companies and NGOs; Furthermore, the organization is part of CONFENIAE AND CONAIE (CONAIE, 2014). Although this type of political organization exists for acculturation, the main figure of the community is still respected, which is an old man who plays the role of the cacique, shaman, and sage. This figure is known as Curacan and is also an important pillar to preserve ancestral traditions and pass them on from generation to generation, it is for this reason that he oversees performing the well-known Ayahuasca ceremony through which the Sequoia population connects with nature and its spirits (Ormaza & Bajaan, 2008).

The redwoods, like most Amazonian indigenous people, are dedicated to the house, fishing, agriculture, and crafts that are not only used for their consumption but also sale to nearby towns. The location of this community has given a place for its locals to work in the planting and extraction of palm or oil blocks. Despite the above, most of the population has fought for years for these destructive activities to stop and for their legal territory to be extended or converted into a reserve, to protect their home and families (CONAIE, 2014).

Finally, one of the traditions that characterize this nationality is the Ayahuasca ceremony because for them it means the union of their worldview with the earthly world since for the Sequoia spirituality is present day by day. Therefore, when practicing this ritual in which they drink the sumo of ayahuasca, a hallucinogen, it helps them obtain the power of knowledge and thus communicates with the three spiritual elements in which they believe, and these are Yejapai, the inhabitants of the subsoil; Pairepa, the inhabitants of the jungle; and Matemopai, the spirits that inhabit the place beyond the sky (El Universo, 2002).

## **Shuar community**

This is the best-known nationality in the country since they are found in Morona Santiago, Zamora Chinchipe, Pastaza, to a lesser extent in the provinces of Sucumbíos and Orellana as well as in the provinces of the Ecuadorian coast. In the same way, this nationality has a presence in Ecuador and Peru, in Ecuador, it has an approximate population of 110,000 people representing 45% ethnicity in the provinces of Morona Santiago and Zamora Chinchipe, and currently, they have a territory of 900. 688 hectares within which three important protected areas have been established, such as Sangay National Park, Podocarpus National Park and Cuyabeno Wildlife Reserve (CONAIE, 2014).

The Shuar are dedicated to typical activities such as agriculture, fishing, and handicraft production, but being a large community, most of the towns carry out these activities extensively because their production is sold both nationally and internationally. In the same way, since the community is surrounded by oil and mining companies, its inhabitants work in these companies because they pay better salaries than those, they get by working their land (CONAIE, 2014).

For their part, they are a society in which the family is part of the politics, economy and culture that is fundamental in their lives, for this reason, several accepted traditions are still preserved, such as the polygamy and levirate (Salazar, 2018). Also, the Shuar families or society have clear principles in which mutual respect, hard work and honesty prevail, which are ways of life (values) that have been passed from generation to generation by example. While in the religious sphere they have a strong belief linked to the laws of the universe and nature, for that reason they profess a wide variety of superior beings, among them the most important are Etsa (good), Iwia (evil), Shakaim (male strength and ability), Tsunki (water and health), and Nunkui (female fertility). These entities are represented by elements found in nature and they think that each person has an entity that represents them and will guide them for the rest of their lives, for the same reason, children at the age of six begin to look for their spirit in the jungle. In this sense, it's most important symbols are the tiger, which is the male side, and the snake, which represents the female side. Along the same path, one of their beliefs is that the human being does not have an end when he dies but that his spirit is obtained by another human being who may be his family member and who will fulfil another life cycle (CONAIE, 2014) (Fundación Chankuap).

To conclude, with the arrival of the evangelical missions to the Shuar territories, these have changed over time, so although the shaman continues to be an important pillar in the community that plays the role of healer, sage, and priest. Now he is also considered a political boss. In the same way, after Christianization, the towns were no longer dispersed and nowadays they were organized by

centers, the unions of these centers that are small towns are now associations that at the same time were grouped into federations that are the socio-political organization that directs both internal and external affairs. Taking this into account, in recent times the Shuar have established representative federations, in their fight for the rights of the people.

### **Siona Community**

To begin with, this is a nationality that has a presence in Colombia and Ecuador. In the country, it is found in the provinces of Sucumbíos specifically in the Shushufindi canton, San Roque parish and the Putumayo canton, Puerto Bolívar parish. Dispersed in these territories, the Siona is made up of four communities that are Biaña, Orahüeyaya, Puerto Bolívar and the most recent one that separated from the former Tarapuya; among these four communities, the total Siona population in Ecuador is 319 people. It currently covers 40,000 hectares and is located within the Cuyabeno Wildlife Reserve (FEPP, 2007).

The Siona community within its villages has divided the lands into family plots and spaces of common use, which are used in activities such as agriculture, fishing, and hunting; therefore, its main economic activities are horticulture, hunting, fishing, and the workforce in clearing the forest, construction of camps and opening of trails (Ministry of the Republic of Colombia, 2019).

Something important to note is that the Siona is united to the Secoya since both communities belong to the Tucano Occidental linguistic family, they also have similar customs and live-in nearby territories, therefore they have created family relationships and at present, there are several families that They have precedents for both ethnic groups, which makes it difficult to distinguish the cultural distinction of several indigenous people in the area (Varga, 2007). In addition, part of its history tells that its first sightings of the outside world occurred when gold explorers, after the European conquest, began the search in the Amazonian mountains of Colombia and Ecuador; The explorers were struck by the fact that this town cultivated immense gardens of native products that were used for their survival, It is presumed that this is where its name (SIONA) comes from, which in its Tucano language means towards the garden. Unfortunately, with the arrival of settlers to their territories, industries such as rubber and oil were established, which resulted in the Siona - Secoya being subjected to slavery, for that reason entire groups migrated to more internal places in the Amazon (Ministry of the Republic of Colombia, 2019) (Enriquez, 2019).

As for the worldview of the Siona people, this is animistic and they do not believe that there is a specific entity for good and another for evil, that is, for them, there is a multitude of spirits that inhabit nature, and these may be endowed with those two states. Also, they profess the existence of a

tiered universe where an underworld, the earth and various heavenly realms coexist. Part of their culture that is linked to religious ceremonies and their daily life is that the group cares about their cleanliness and physical appearance, which includes their body paintings and traditional hairstyles; this for them is to provide respect to the spirits, to the same community and is a differentiating factor from the other communities (Etnias del Mundo, 2019). Lastly, the socio-political activity of the Siona is weak because there is population dispersion, and each group has an authority that oversees the protection of its people.

This continues to be a basic society based on the patrilineal, patriarchal home and headed by an elder, even in several villages the shaman continues to be an important person who serves as an authority or head of the community. Nonetheless, women play an important role in the health area and are respected for their wisdom. Despite not having a socio-political strength at this time, the community formed the Organization of the Siona Indigenous Nationality of Ecuador (ONISE), and they are members of both CONFENIAE and CONAIE (Enriquez, 2019) (Etnias del Mundo, 2019).

### **Shiwiar Community**

The Shiwiar nationality is called binational since it can be found both in Ecuador and Peru, in Ecuador it is a small community that is in the province of Pastaza - Río Corrientes parish, the same one that borders the neighboring country Peru. In addition, the traditional area where the Shiwiar is located, which is the Corriente and Tigre rivers, is recognized as a National Security Strip, that is, it is a strategic territory that has elements and characteristics that require special regularization to guarantee the protection of the place against damages or security threats (GK, 2020) (CONAIE, 2014). The approximate population of the community is barely 727 people dispersed in nine communities that are: Bufo, Cambantsa, Chuintza, Juyuintza, Kurintsa, Panintza, Pientza, Tanguntza, and Tunguintsa.

Like the other Amazonian indigenous nationalities, this one develops in productive activities such as agriculture, hunting, fishing, or in the elaboration of handicrafts and tourism. This community is surrounded by soils and subsoils with enormous wealth and, it is for this reason over the years, since its contact with the Western world, it has been affected by extractive companies, which at present have also granted work to several young people in the community (CONAIE, 2014).

Speaking a bit about its history and culture, the Shiwiar nationality remains one of the most remote communities and is accessible only by plane. The first contact they had with the "outside" occurred at the end of the Ecuador - Peru war. That is when the Shiwiar population was also divided between the two countries, the Ecuadorian government set in the territory where they settle a strip of

national security for the reason of being a border and this covers approximately 100, 000 hectares.

Before what was pronounced the Shiwiar were nomads but with the arrival of the Rio de Janeiro protocol and evangelization they changed to a sedentary life which helped the new religion and social organization to be established quickly. Over time, several oil and mining companies became interested in the place; however, in 1992 the Shiwiar community obtained the legalization and ownership of a large part of its territory. In the cultural part, they are connoisseurs of the famous art of reducing heads, at present, they do not practice it, but the elderly knows the process and usually teach other generations; In the past, polygamy was common among the Shiwiar, but given the western influence, they are now monogamous and not only hang out with people of the same nationality but also with Kichwas and Achuars (Saavedra, 2011). In terms of their worldview, the Shiwiar believe that spirits are present everywhere and that every aspect of life is represented by a spirit. To praise these entities and guarantee a relationship with them, the use of chants is quite common. These chants have become an aspect of the differentiator of the Shiwiar. At the same time, shamans are the direct communicators with the spiritual world and achieve this through rituals in which they ingest hallucinogenic plants such as floripondio or ayahuasca, thus interpreting the signals that the spirits send them during the ritual or dreams (NASHIE, 2008).

Finally, the nine Shiwiar communities grouped form an association and its board of directors is based in Puyo. Likewise, this association created a political organization called the Organization of the Shiwiar Nationality of Pastaza located in the Ecuadorian Amazon that represents the community nationally, in addition, the organization is a member of both CODENPE and CONAIE (CONAIE, 2014).

### **Zápara Community**

The last nationality is the Zápara, this community is located in the province of Pastaza in the parishes of Montalvo and Río Tigre; Within this territory there are twenty-one communities that are: Alto Corrientes, Atatajuinkia, Ayamu, Balsaura, Conambo, Chuyayacu, Cuyacocha, Garzayacu, Guiririma, Imatiña, Lupuna, Masaramu, Nueva Amazonas, Nueva Santa Rosa, Ñima Muricha, Pindoyacu, Pumayacu, ShionaWiririma, Suraka, Torimbo, and six more communities that remain to be recognized are: Jandiyacu, Llanhamacocha, Naku, Naruka, Nakuna, and Rípano (Mucushigua, 2018) (CODENPE, 2018). Within the entire Zápara territory, there is approximately 1. 500 inhabitants of which approximately 559 are záparas, the rest belong to other nationalities such as Andoa, Kiwchua, Shiwiar and Shuar (INEC, 2018) 2010. Also, have a land area of 322. 029 hectares in the name of the Sapara Nation of Ecuador and have 50,000 hectares without title, access to the

Zaparo lands is difficult so they have a small airstrip for small planes and to reach those more remote communities is done by canoe or on foot (Ruiz, 2018) 2017.

Regarding its history, it is said that the surface of the Pastaza province was only Zápara territory, so its neighbors were the Waorani along with the Achuar (La Hora, 2006). In this sense, this nation had an extensive population that used 36 dialects within its unique language, however today the Zápara language is almost extinct due to its constant invasions. With the arrival of the Spanish colonizers, the Zápara world changed radically since, seeing that these territories were rich, the Spaniards began to exploit them and extract rubber and mining resources from them, in the same way, the community leaders together with most of the people. They were enslaved, consequently, many people died, and this is one of the reasons for the decline in their population. Equally, with the arrival of the Spaniards, the gospel was introduced and, as the Záparas were faithful believers to their spirits of the forest, some people were sacrificed in the name of God. Despite all the abuses they have experienced, they have survived and made their culture stronger.

However, in 1942 the Zápara territory was divided in two, between Peru and Ecuador, this was another reason for this community to be on the verge of its disappearance because they felt that by not being together, they were weakened before others (CONAIE, 2014). An important point that should be clarified is that this nationality has been divided since the time of rubber exploitation, that is why there are the Zápara del Curaray who were persecuted by the Achuar and that is why they chose to unify with the Kichwas Canelos; on the other hand, the Záparas of Conambo, who were supposedly exterminated by the Kichwas but in reality became a community that adopted Kichwa as their main language and kept their names, surnames and Zápara identity; and finally there are the autonomous Zápara who decided to stand firm before other communities and the colonizers, this group in 2001 was declared by UNESCO as a Masterpiece of Intangible Heritage of Humanity, giving them the opportunity for their culture, traditions, language and history does not disappear (Reeve, 2017). Since 2008, the Zápara began to be part of indigenous organizations and thus created the so-called Zápara Nation of Ecuador, this institution is made up of 23 communities that live within the Zápara territories such as the Achuar (CONAIE, 2014).

Concerning its worldview, extraordinarily little is known from the history that the community has been dragging in terms of persecution by other communities, annexation to the Kichwa community and Spanish colonization. However, the ancients of the autonomous Zápara community together with people from their community are applying the teaching of ancestral knowledge to the new generations so that their culture does not disappear. Within this, the worldview can be found, which is based on a union between past and present knowledge in which the dream is important since through this one can know what happened in the past and what will happen in the future, they also believe in a kind of spirit energy called Piatsaw who gave them the power to dream



and thus be able to be in contact to guide the community. Next to this god is Tsamaru who for them is represented as a beautiful spear that cuts bad souls causing a balance to exist in society, although this is a spirit typical of Zápara shamanism; and more spirits have to do with nature (Bilhaut, 2011).

Finally, the economy and political division, in this nationality are a little different from the others given that they are still in an area of difficult access and exit, it is because of this and because of their ancestral rules and regulations that the Zápara manage in a sustainable way their resources, for example, they hunt and fish what is necessary to feed their families, they do not have extensive crops or practice tree felling. That is, the community feeds and survives by the resources that the jungle grants them, and every time they can go out to large cities, they sell their crafts in the markets as well as certain crops with the money they get from this they usually buy staple products that they do not have in their forests.

On the other hand, they are in the process of recovering their identity, so it has been necessary for them to form organizations to get help. The social nucleus are different communities found in the territories Záparas and which make up the Organization of the Zápara Nationality of Ecuador, which is also part of CONFENIAE and CONAIE (CONAIE, 2014).

### **1.1.2 Description of uncontacted Amazonian communities**

To begin with, it should be stated that, it is an uncontacted people or in voluntary isolation, “peoples or segments of peoples previously contacted and that, after intermittent contact with non-indigenous societies, they have returned to a situation of isolation, and break the relations of contact they may have with said companies” (Inter-American Commission on Human Rights, 2015).

According to the report "Indigenous Peoples in Voluntary Isolation and initial contact" within America, there are around 200 peoples in voluntary isolation that cover approximately 10.000 people, most of them are in South American countries that have hard-to-reach Amazonian and tropical areas (Shelton, 2012). In Ecuador two uncontacted Amazonian peoples are the Taromenane and Tagaeri people, the latter being a family belonging to the Waorani. In whether these uncontacted peoples are families that separated from larger communities and decided to stay in isolation to move away from the Western way of life either because they did not agree or because they had short experiences of contact with the outside world that brought them problems such as epidemics, abuse of rights, killings between communities due to differences, and even the non-consensual exploitation of their territories. An interesting fact is that some members of the Waorani community state that there are other families in voluntary isolation that live in Pastaza near the border with Peru, which is the Pananujuri, Feromenani and subgroups or families of the Záparas (Álvarez, 2017). Also, it must be clear that the

Ecuadorian State recognizes in its Constitution the existence of these groups and their rights.

Even though the possible existence of other groups in voluntary isolation was expressed, at this point only information such as ethnography, history, worldview, and culture of the Taromenane and Tagaeri peoples will be analyzed because they are the most uncontacted groups recognized in Ecuador, in addition, the thesis is directed exclusively to the Tagaeri community.

On the other hand, a study carried out by the Ministry of the Environment of Ecuador in 2008 states that there are three sub-groups of Taromenane - Tagaeri that are the following: the Cuchiyaku - Curaray group that is located on the Shiripuno river and that is supposed they are among the survivors of the 2003 massacre; This act took place on May 26, 2003, in the Cuchicocha sector when nine Waorani murdered 26 people from the Taromenane - Tagaeri clans in revenge for the death of two Waorani elders who were found pierced by spears, these elders lived in the territory of said clans (Constante, 2013). Furthermore, this subgroup has its territorial segment in the Tagaeri - Taromenane Intangible Zone. Second, the Armadillo - Cononaco Chico group, which is made up of the surviving families of the violent acts and it is thought that also by a group called Iwene (a product of the mixture between Tagaeris and Taromenanes), inhabit the largest territorial segment outside of the ZITT that includes Waorani territory and Yasuní National Park. Finally, the Yasuní - Gabarón group located between the lower Nashiño and the lower Cononaco, is presumed to be made up of families that are members of the Waorani nationality that long ago separated and remain in voluntary isolation located in the southern area of the blocks. Oil tankers 16, 31 and 42 of the Ishpingo, Tambococha and Tiputini (ITT) border sectors between Peru and Ecuador (Ministry of the Environment of Ecuador, 2017).

Once certain antecedents of the uncontacted Amazonian groups of Ecuador have been presented and the relationship between Tagaeris and Taromenanes has been put into context, we will proceed to describe these two sub-groups in voluntary isolation in a precise and individual way.

### **Uncontacted Amazon Community Taromenane**

The first people in voluntary isolation are the so-called Taromenane group, it should be noted that information about this population is scarce for the same reason that they are isolated and that is why the following text will summarize several stories found about the Taromenane.

The story goes that in 1956 there was a first attempt at contact with the Waorani which ended in a violent rejection, leaving five missionaries dead. Later, between the 60s and 70s, there was an advance in the oil industry in the Amazon area where several indigenous communities were settled,

and in the same way, the Summer Institute of Linguistics (an international organization that studies the languages of the indigenous communities) through manipulations proceeded to find, organize, and teach various Waorani clans not to care for their territory and new life practices (Cabodevilla, Smith, & Rivas, *The Waorani: contact and subordination*, 2004). What they wanted to achieve with this was to locate all these indigenous people in a camp called Tigüino to make them sedentary in the name of God, in this way the government together with the oil company of the moment (Shell) would not harm them and could exploit the territories where they used to be (Barreto, 2015). Shortly after all these people were united, problems of tension began to arise between families or related groups, diseases brought from abroad spread and even though the Waorani population increased, it also segregated. For these reasons, not all indigenous groups and families agreed with this process of relocation, pacification, and abandonment of territories, therefore they decided to move away from everyone and everything, and went further into the Amazon (Cabodevilla, Smith, & Rivas, *Los waorani: Contacto y subordination*, 2004).

From there comes a clan was known as Taromenanes that according to the records obtained from the Waorani Taromena, where Taromenane comes from, was the name of the head of a clan that 100 years ago had intermittent contact with the Waorani this group resided in the basins of the Curaray River. In addition, in several texts, it is highlighted that this clan is not related but has few similarities with the Waorani; one of them is the Huao language, although the Taromenane use a different dialect, and another similarity is the weapons they use to hunt or attack their enemies. This town is home to approximately 80 to 100 people, of which several of its women are said to belong to the other group in voluntary isolation Tagaeri (Cabodevilla, Smith, & Rivas, *Los Taromenane. Who are they?* 2004). In addition, it is said that the Taromenane decided to remain in isolation due to the pressures of the rubber advance in the area, so Taro the leader guided his allies and families to areas far from these industries. However, extraordinarily little is known about their habits, customs, beliefs, and their way of life itself, only stories told by those who knew them or who have rarely seen them are known, for example, a source is the elderly Waorani who describe the Taromenane as warriors as fast as the jaguar and with precise and large weapons (Intercultural, 2018).

Finally, of the few descriptions that witnesses have given, it has been revealed that they are people with short but strong legs, thick bodies and build, with white skin, short hair, their ears have small or some do not have holes, and they have slanted eyes. These descriptions have made several Waoranis think that they are the Taromenane clan with which they had problems a long time ago, in addition, these accounts have shown that this clan is not related to other indigenous peoples and that it is not non-existent or mythical as several believed (Aguirre, 2003). In the same way, it is said that they are endogamous clans for that reason within their groups there are marriages between close families and relationships by alliance (Chávez Vallejo, 2003). Finally, it is an ecosystem society that

lives in a direct relationship of dependence with nature and lives following a pattern of seasonal mobility that allows them to gather food and hunt, as well as seek to return to places related to their ancestors (IACHR, 2020).

### **1.1.3 History of the Tagaeri people**

The history of the Tagaeri people has been compiled thanks to the data mainly given by the Waorani community, for the few appearances that they have made and for the acts they have carried out for their protection. It should be noted that most of these narrations show that it has been a people affected by disputes against other communities and that it is possible on the brink of its disappearance.

Again, the history of this town goes hand in hand with the Waorani community. This was an ethnic group that has always been used to fleeing from its enemies, they were few, and for that reason, it did not seem ideal to confront them; they always looked for territories where they could live in peace. For these reasons, the communities around them referred to the Waorani as quiet people. However, the new century brought new events that would devastate the harmonious life of the inhabitants of the Amazon. The oil exploitation and the rubber and wood business were the economic boom of the moment; these industries gave way for evangelization to reach these towns. At the same time religion was the support of the large industries to locate in these areas. At the time of the arrival of settlers, they brought with them new diseases and the opening of roads.

Thus, in the 40s and 50s, there were repeated internal disputes in the Huao community, and these became more acute in the 60s, for that reason there were irremediable divisions. The disputes that are talked about are mainly two: the first is told by the Waorani warrior Babe, leader of a group and cousin of Taga. He comments that Kimontare was his paternal uncle who took the place of his father when he passed away, he says that he was a rather cruel leader even more than Nihua and that he ordered the killing of several members of his community, for the same reason the family fights were up. One of these deaths had consequences, Dabo, another relative of Babe, killed, in revenge for the death of his father, Buganei who was Nihua's favourite woman and at the same time killed the leader of that time Kimontare with spears. Consequently, the eldest son of the murdered leader named Taga had to flee the place with his family, other families and allies led by a warrior named Name; these are said to have headed south while the other Waorani with Babe stayed north. The Capuchin missionary Miguel Ángel Cabodevilla explains that the death of a young person within the Waorani community has terrible consequences. First, if the young man who dies is the leader of a clan, there is a fight over who will be the new chief; second, the Waorani belief says that: "death causes an uninterrupted chain of aggressions" so for them revenge is inevitable. Hence the murder of Kimontare, father of Taga, the separation of the Waorani community and the beginning of the

revenge-rivalry between the Tagaeri and the group led by Babe, a rivalry that continues to this day (Reyes & Villavicencio, 1999).

The second reason for this separation can be said to be the same as what happened in the stories of the Taromenane clan, that is, the Kimontare family together with Taga did not agree that there is contact with the outside, they preferred to keep their virgin territory without oil companies, colonists and even other indigenous communities invading their place. Nor did they agree with the mission of the Summer Institute of Linguistics that should help the oil companies to accept the entry of these large companies in exchange for living in a colonial way, these arguments that some wanted to live abroad, and others did not bring trouble within the ruling family and The Taromenane also, divisions in the community, that is why several joined Taga and others Babe (Cabodevilla, Smith, & Rivas, Los Taromenane. Who are they? 2004).

In 1968, after this rupture occurred and Taga along with his clan fled south away from the Huaorani (Waorani enemies) and the Cohuodij (strangers, whether indigenous or colonists), that is, between the province of Orellana and Pastaza in a strip between the Shiripuno, Cononaco, Tingüino and Napo rivers within the Yasuní National Park, they determined that this would be their way of life and that they would not let anyone mess with that or with their territory. Consequently, between 1968 and 1977 the Tagaeri built a reputation as barbarians and were nicknamed "wild aucas" and "red leg". Also, in these times they originated different attacks on a nearby town known as Coca because this community was getting too close to the territory of the Tagaeri, a situation that made them quite uncomfortable (Reyes & Villavicencio, 1999). Something that the Taga people did not know was that the Summer Linguistic Institute was the one who relocated the Coca commune to this site since their area was going to be occupied by an oil company (Cabodevilla, Smith, & Rivas, Los Taromenane. 2004). As the years went on, specifically at the beginning of the 80s, there was the rise of oil exploitation in Ecuador and therefore, being a large inflow of money, the different governments, in turn, allowed the indiscriminate use of technologies that polluted and that they were not suitable for the fragile areas from which they extracted oil; In addition, to facilitate oil exploitation in the sectors, roads were built that over time made it easier for settlers to create their villages on those lands. All this brought with it unfortunate consequences such as the disappearance of the Tetetes indigenous people, likewise peoples and cultures disappeared or modified their daily lives and there were no policies that could take care of life and culture. Regarding everything that had been happening, in 1987 Ecuador and the whole world were amazed by a news story that the Tagaeri starred in. During a mission to the east, Monsignor Alejandro Labaca together with Sister Inés Arango had a fearful encounter since they were thrown by the feared "wild aucas". It is in this way that the Tagaeri people make themselves known and make it clear that they aspire to live free (Reyes & Villavicencio, 1999). Likewise, peoples and cultures disappeared or changed their daily lives and there were no policies that

could take care of life and culture.

In posterity, the Tagaeri continued to have confrontations with neighboring communities and at different times they staged side and side deaths, for this reason, the Taga moved as far as possible from the other communities, entering the depths of the Amazon. In the few appearances or encounters that these people had with other indigenous people, it was possible to obtain the data that in the 80s - 90s they were approximately a clan of 50 people, which has caused curiosity about not knowing how they could survive and reproduce being so few. What can be known with certainty is that for them we are the strangers who sponsor their destruction, the death of their leader and families and that because of what the outside brought to their world, they must always move to look for food and security (Reyes & Villavicencio, 1999).

On the other hand, very few know that there was a woman from the Tagaeri clan named Tapa Taga's sister, who fled her home, due to the conflicts of the time, towards areas of the Teweno people in the Dayuma – Orellana parish, this town is also part Waorani nationality. Their stories have been essential to know about the Tagaeri and thus build their history. In addition, she has left an open question about whether this town still exists since according to what she remembers is that the Tagaeri were few and that is why they exchanged women with the Taromenane people (Romero & Racines, 2018), this is a story that on the other hand it was confirmed in 2003 after the confessions that the group of Waorani who murdered the Taromenane confessed. What they could tell was that within the clan that attacked 7 women were Tagaeri and that probably what happened was that the Tagaeri and Taromenane people merged as they were peoples in voluntary isolation (Cabodevilla, Smith, & Rivas, 2004). In the same way, there is a story given by Omatuki of a Taromenane woman, kidnapped by Waoranis who currently lives with them, in which he says that there was a violent encounter between Tagaeris and Taromenanes and that most of the Tagaeris died due to this. Taromenane took their wives (Cabodevilla, Smith, & Rivas, Los Taromenane. Who are they? 2004). However, there are other accounts given by tourists, tour guides, people who work in oil companies and Waoranis, who say that the Tagaeris still exist and are still a small group with around 30 people (Irma, 2017).

Finally, it has been possible to conclude that the Tagaeri like the Taromenane are an ecosystem society that lives in a direct relationship of dependence with nature and lives following a pattern of seasonal mobility that allows them to gather food and hunt, as well as seeking to return to places related to their ancestors (IACHR, 2020). Also, families gather around the elder of the clan and are self-sufficient people, commonly the woman fulfils the role of housewife and farmer while the man goes hunting and builds weapons; finally, it is said that they are endogamous since the majority are family (Chávez Vallejo, 2003).

## **1.2 The constitutional recognition of your rights**

Ecuador from its conception has been a country with ethnic and cultural diversity, however, the social imaginary and the legal aspect regarding indigenous peoples was an issue that was not considered by the colonial conception that the republic had (Chávez GD, 2005). To obtain their rights throughout history, the indigenous people went through a long process of struggles, debates, and social confrontations, which will be explained below.

In 1830 Ecuador gained its independence and until the beginning of the 20th century the laws that had been dragging from the Royal Court of Quito, that is, the colony, were based on cultural homogeneity. The indigenous population at that time was the majority, despite that, it was perceived as the inferior, savage, stumbling block of the economy, or even as a historical holdover; Therefore, in the Constitution of the time it was determined that the natives had to pass from savages to citizens through religious tutelage. That is, the priests were appointed as guardians of the indigenous people so that they could be converted to religion and educated in their way in a forced way. All was intended to be carried out to reduce the independent places that the indigenous people owned outside the law; these spaces were communal property where their authorities also elected. In 1861 the country was weakened after several coup attempts, in addition, the changes of the Assembly were constant and the claims by the indigenous group as well. From this year it could be pointed out that in Ecuador there is a first mention about the indigenous in its Magna Carta, despite their “category” of a miserable class. In 1929, an article on the allocation of land was added to the Constitution, which consisted of giving a piece of land to communities or towns that lacked it or water, so that they could satisfy basic and hygienic needs. In the same way, a text is added that alluded to the protection of the worker and peasant, to somehow offer a minimum of human dignity to this group (Barié CG, *El nuevo constitucionalismo ecuatoriano: from abject class to ancestral nationalities*, 2003).

In 1937 there was again a milestone in the Ecuadorian legislation regarding indigenous rights, the Law of Organization and Regime of the Communes was created and at the same time, the complementary law called the Legal Statute of the Peasant Communities. This new regulation recognizes for the first time the rights and obligations of hamlets, neighborhoods, and communities that subsist within a nationality. In addition, the complementary law established duties and powers for the State to protect peasant communities (Barié CG, *The New Ecuadorian Constitutionalism: From Abject Class to Ancestral Nationalities*, 2003). Despite the legal recognition of the indigenous people, their territories, and their authorities, what the current government sought was to segment and reduce the indigenous people to their social-organizational circle; and limit their political capacity (Galarza, 1996) since they had a strong population presence. By 1945, the solid constitution that the country had was weakened the existence of the indigenous and even their language was finally accepted, and

there was support from the State for an indigenous deputy to join the National Congress. A year later, in 1946, a new Constitution was established in which it was stated that the protection of indigenous people and peasants would be effectively fulfilled (Barié CG, *The New Ecuadorian Constitutionalism: From Abject Class to Ancestral Nationalities*, 2003). State support is given for an indigenous deputy to join the National Congress. A year later, in 1946, a new Constitution was established in which it was stated that the protection of indigenous people and peasants would be effectively fulfilled (Barié CG, *The New Ecuadorian Constitutionalism: From Abject Class to Ancestral Nationalities*, 2003).

The history of indigenous rights claims after 1940 is linked to the emergence of national indigenous organizations (Barié CG, *The New Ecuadorian Constitutionalism: From Abject Class to Ancestral Nationalities*, 2003). In this way, in 1944 the Ecuadorian Federation of Indians (FEI) was founded, which is recognized for fighting against the hacienda system and for an agrarian reform (Kaltmeier, 2013) (Altmann, *A brief history of the organizations of the indigenous Movement of Ecuador*, 2013). A few years before, the Ecuadorian Confederation of Catholic Workers was formed, which later in 1988 changed its name to Confederation of Unitary Workers' Classist Organizations, this grouped artisans and urban workers, and was part of the Confederation of Peasant Organizations, Indigenous and Black (Albó, 2009) (Tamayo, 1996). At the same time, it created a subsidiary called the Federation of Agricultural Workers (FETAP) during the agrarian reform, the same one that fought the Huasipungo system to achieve a proportional distribution of land and for labor rights (FENOCIN, 2004) (Altmann, *A brief history of the organizations of the Indigenous Movement of Ecuador*, 2013).

In 1980 the Ecuadorian Council of Evangelical Indigenous Peoples and Organizations was formed from an idea of the evangelical churches (Rodríguez, 2008) (Wolff, 2008). In 1990 this organization brought together approximately 17% of the indigenous population (Wolff, 2008). In 1998 he created his political party against the Pachakutik movement (Altmann, *A brief history of the organizations of the Indigenous Movement of Ecuador*, 2013), and in the mid-2000s it already had 17 provincial organizations (Andrade, 2005). Therefore, this organization was fighting for "a reform of the public administration and for economic means that would facilitate a better quality of life for indigenous peoples" (Rodríguez, 2008). Continuing, in 1960, the Confederation of Indigenous Nationalities of Ecuador was born through the Shuar Centers (Federations Shuar, 1976). In the beginning, he was a member of the National Federation of Peasant Organizations and later in 1980 he became part of the foundation of the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE) whose goal was to defend its territory and ethnic identity (CONAIE, 1989). On the other hand, the Shuar Federation always stood for the State to recognize ethnic diversity, along that path the first demands are made for the country to be multiethnic and multinational, and to fight for an education where its peoples are considered (Chiriboga, 1986) (CONAIE, 1989). Finally, this was part of the creation of CONFENIAE on behalf of the indigenous peoples of the Amazon



(Chiriboga, 1986).

By 1972, in the province of Chimborazo, Ecuador Runacunapak Rikcharimui (ECUARUNARI) was founded as an organization of the Ecuadorian Kichwas or also known as the awakening of the indigenous people of Ecuador (CONAIE, 1989) (Botero, 1998). In the beginning, their claims were based on ethnic demands and the recognition of the different indigenous groups that had different needs (ECUARUNARI, 1989). In 1978 he was part of the foundation of the Frente Unico de Lucha Campesina Indigena (FULCI) with which he led a series of mobilizations that demanded union demands (CONAIE, 1989). Finally, at the end of 1980, together with CONFENIAE, it constituted the Council for the Coordination of Indigenous Nationalities of Ecuador (CONACNIE) which in 1986 became CONAIE (Altmann, Ecuador Runacunapak Rikcharimui (ECUARUNARI), 2013).

CONAIE was born in 1986, as a result of the failed CONACNIE (CONAIE, 2005), with objectives such as: “the defense of indigenous cultures including traditional medicine; the return of indigenous lands in a form of community property; the education and awareness of indigenous people in bilingual education programs in the various indigenous languages of the country; the search for alliances and financing to form an indigenous bank; and the coordination of the policies of all indigenous organizations in Ecuador ”(Moreno & Figueroa, 1992). One of the most important milestones for this organization and the history of indigenous rights occurred in June 1990 when the largest indigenous uprising in history, known as the Inti Raymi festival, took place. In this rebellion, the indigenous people concentrated in the capital Quito for several days, paralyzing the city and occupying roads, land, and more spaces for their demonstrations. The requests they had for the current government were based on a 16-point manifesto that included ethnic, class, and citizen demands, such as the recognition that Ecuador is a plurinational country (León, 1994). This event marked a starting point for the development of other indigenous actions that demanded collective rights and territorial autonomy in 1990 (Minkner-Brünjer, 2009). In 1992 there is a new mobilization for the fulfilment of the agreements reached after the 1990 strike, two years later, in 1994, there was an uprising against the agrarian modernization laws and in opposition to the economic privatization reforms promoted by then- president Duran Ballen in 1995 (Santillana & Herrera, Organizacion y Desarrollo de la CONAIE, 2009). It is important to emphasize that these struggles managed to resolve many of the land conflicts that had been occurring since 1960 through legal channels (Simbaña, 2007). Other contributions of which CONAIE was a part are: first, the coup against Abdala Bucaram in 1997 and was a key part of the Constituent Assembly in 1998 (Santillana, Organización y Desarrollo de la CONAIE, 2006); second, he took several actions against the Mahuad government until his dismissal in 2000; third, between 1996 - 2002 she was recognized not only nationally but also internationally for her anti- neoliberal struggles; Finally, in the 2002 elections they supported Lucio Gutiérrez and participated in his presidency, however when he did not respect indigenous demands, he no longer

obtained the support of the people (Altmann, Organización y Desarrollo de la CONAIE, 2013).

On the other hand, it is important to talk about the Constitutions and what was found in them regarding the rights of indigenous peoples. Next, a table will describe what the two previous Constitutions (1979 - 1998) declare in this regard:

**TABLE 1 - Rights of Indigenous peoples in the Constitutions between 1979 and 1998**

<b>Constitution</b>	<b>Year</b>	<b>Recognition Indigenous</b>	<b>Important Facts</b>
Constitution from 1978 or Constitution from 1945 reformed	1978	Recognized the Importance from the indigenous languages like from the part of the integration and anti-national cultural without kept a view to the Rights village collectives' natives.	In 1990 indigenous unemployment: Influences the creation of the plurinational political party Pachakutik Movement that succeeds to obtain several representations within the government, in the posts of national, provincial and mayors (Barié C. G. and mayors (Barié C. G., At the present present, 2003).

<p>Political Constitution of the Republic of Ecuador 1998</p>	<p>1998</p>	<p>Ecuador for the first time assumes as a state multiethnic and plurinational, approving the recognition of indigenous languages as education derivatives from this culture.</p> <p>This Constitution had articles like law to the identity promotion from the medicine alternative, conservation from the biodiversity and the maintenance environment from the ecological services protection of environment from technologies and alternative energies also de prohibition of the introduction of national territory of nuclear wastes and toxic waste and acknowledgement of trade like commercial trade.</p> <p>Strengthened the individuals' rights of the prohibition of racial discrimination (Barié C.G. La Carta de 1998, 2003).</p> <p>In the Constitution, the Economic and Property rights were Linked to the Maintenance of property ownership of the community lands community lands, which inalienable, indivisible, and untouchable; it also recognized the conservation and development of traditional ways of coexistence and social organization, as well as to maintain the ancestral possession of community lands or the right to the right to collective intellectual property their ancestral knowledge, and to its valuation, use and development.</p>	<p>Article 84 from the Constitution approves that the different social indigenous organizations be recognized by the state promoting the participation of the same and the usufruct administration and conservation of the natural resources, and at the same time secure the indigenous rights to the consultation of the future. Exploitation of the non-renewables natural resources (Barié C.G. The article 84, 2003)</p> <p>This Constitution supports the 169 Treat of the OIT accepting the auto definition of the indigenous like nationalities of the ancestral roots (Chavez G. Right Ecuador, 2005).</p>
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Source: (Barié CG, Now, 2003) (Chávez G., Law Ecuador, 2005)

Prepared by: Natalia Sarmiento León (2020)

At present, Ecuador has a new Constitution that was created in 2008 and speaks to deepen the scope of the rights of indigenous peoples, for which it will be explained with accuracy in the next part of this writing.

### **1.2.1 The Constitution of Ecuador 2008 and the rights of indigenous groups**

“Indigenous law is part of a broader struggle for minority rights that through human rights, they found the legal mechanisms to demand their rights before the government's nationals” (Iturralde, 2015). These rights are in your collective majority, and groups are considered by their specific circumstances of belonging to aboriginal peoples or original. This set of rights of indigenous peoples and nationalities includes the basic human rights like language, culture, religion, and rights regarding their identity and territory (Marín Ordonez, 2018).

In Latin America, it could be said that the first Constitution that has an indigenous tinge is that of Peru 1920, which recognized indigenous peoples and prohibited slave labor relations (Huguet, 2010). In Ecuador, as already mentioned in the previous topic, the indigenous people went through a long historical process that brought with it significant changes in terms of their rights, and in recent decades these have reached greater importance. Thus, Ecuador currently has the 2008 Constitution, which is recognized for being inclusive with all indigenous groups as well as guaranteeing most of their rights or even for universally recognized human rights. However, it should not be overlooked that today there is still a social heritage that is expressed in the form of racism, discrimination, social inequity, and inequality that directly affects indigenous nationalities (Tibán, 2018). However, one of the major responsibilities of the State is to guarantee, without any discrimination, the effective enjoyment of the rights decreed by the Constitution and international instruments. Thus, the 2008 Constitution from the preamble establishes the construction of a society in which the dignity of individuals and groups is respected in all its forms (Marín Ordóñez, El problema, 2018).

The Constitution of Montecristi is the legal norm that determines the system of rights and guarantees (Castro, 2016), in the case of indigenous nationalities it contemplates collective rights, non- discrimination, territoriality, self-identification, health, education intercultural and communication; the same ones that will be described below (Marín Ordóñez, Indicadores, 2018). Similarly, the same text includes proposals made by the indigenous movement, such as plurinational, the intercultural State, human rights, and the Sumak Kawsay or National Development Plan "All a Life".

Collective rights can be found in the Constitution of Ecuador 2008 in the fourth chapter from

article 56 to article 57 specifically in numbers 1 - 21 of this last section. They protect and guarantee the rights of indigenous nationalities, peoples, communities, and communes – Montubias and Afro-Ecuadorians; They can also be called special rights since they justify the belonging of individuals to minority groups of a state and their nature is established in that they belong to a group where they are allowed to freely develop their way of life (Marín Ordóñez, Derechos Collectives, 2018). In the same way, article 57 declares that “it is recognized and guaranteed in accordance with the Constitution and with the pacts, agreements, declarations and other international instruments on human rights, the following collective rights: development and strengthening of their identity; the non-approval of any form of discrimination and racism; the recognition and reparation of the communities affected by racism; the preservation of the imprescriptible property of their ancestral territories, obtain the free adjudication of these lands; participate in the use, usufruct, administration and conservation of renewable natural resources found on their lands, carry out and be informed of a prior, free and informed consultation on exploitation plans and the recognition and reparation of the communities affected by racism; the preservation of the imprescriptible property of their ancestral territories, obtain the free adjudication of these lands; participate in the use, usufruct, administration and conservation of renewable natural resources found on their lands, carry out and be informed of a prior, free and informed consultation on exploitation plans and the recognition and reparation of the communities affected by racism; the preservation of the imprescriptible property of their ancestral territories, obtain the free adjudication of these lands; participate in the use, usufruct, administration and conservation of renewable natural resources found on their lands, carry out and be informed of a prior, free and informed consultation on exploitation plans and commercialization of non-renewable resources that exist on their lands that may affect their inhabitants in an environmental and cultural way, as well as be part of the benefits that these projects bring or receive compensation if there are social, cultural and environmental damages; conserve and promote the practices that these groups use to maintain biodiversity and the natural environment; preserve and develop their own forms of coexistence and social organization in their legally recognized territories; create, develop, apply and practice their own customary law that may not violate constitutional rights; not be displaced from their ancestral lands; keep, protect and develop their collective knowledge, therefore, any form of appropriation of their knowledge, innovations and practices is prohibited; recover, maintain and preserve its cultural and historical heritage as part of the unique heritage of Ecuador; develop and strengthen the bilingual education system for the preservation of identities in relation to its teaching and learning methods; build and maintain political and organizational entities that represent pluralism and cultural diversity; be participants through the representatives of the certain official bodies in public policy decisions that concern them as well as in the design and decision on State projects; consult these groups before adopting a legislative measure that may affect their collective rights; maintain and develop relations and cooperation with other peoples, especially those divided by international borders; promote the use of symbols, clothing, emblems that identify people of each nationality; according to the law limit

military activities in their territories; that there is diversity in their culture, traditions, history and aspirations that is manifested in public education and the media, also the creation of their own means of social communication and access to other media without any discrimination ” (Constitution of the Republic of Ecuador 2008, 2011, art.57). This same article emphasizes an important issue about peoples in voluntary isolation and states that “the territories that are part of the uncontacted peoples are ancestral possession and therefore are irreducible and intangible, and in these, extractive activity of all kinds will be prohibited. For the State to comply with the non-exploitation of natural resources in these areas, the State will take measures to ensure their lives, enforce their self-determination and will to remain in isolation, as well as guarantee the fulfilment of their rights. Failure to comply with these rights will be called a crime of ethnocide, which will be typified by law” (Constitution of the Republic of Ecuador 2008, 2011, art.57) enforces their self- determination and will to remain in isolation, as well as guarantee the fulfilment of their rights.

The fact that the Ecuadorian State has recognized these rights means that the constituent understands and accepts that there are different human groups and that they need to develop their way of life to carry out their personal and collective destiny. Although the Ecuadorian governments have created these collective rights since 1998, at present the national policies designed are not respecting the constitutional provisions where the rights are made effective. According to Ruth Benalcazar, this happens “due to the distance that exists between the legal recognition of collective rights and the inexistence of institutional frameworks for their real application”. In conclusion, when implementing the application of the rights of indigenous peoples and their protection is not effective since the rights are neither fully guaranteed nor respected by all (Marín Ordóñez, Collective Rights, 2018).

### **1.2.2 Constitutionally recognized rights for nationalities and indigenous peoples**

To start talking about the right to non-discrimination, it is essential to clarify that the Constitution of Montecristi decrees that Ecuador is an intercultural and plurinational country, this can be found in chapter I called Principles of Application of Rights, precisely in article 11 and its numerals which state: “the rights may be exercised, promoted and demanded either individually or collectively before the competent governors; all individuals are equal and therefore will enjoy the same rights, duties and opportunities. No person may be discriminated against for reasons of language, religion, ideology, political affiliation, judicial past, socio-economic status, immigration status, sexual orientation, health status, having HIV, disability, physical difference; or by any other personal or collective distinction, temporary or permanent, whose purpose is to disable or discredit the recognition and exercise of rights. The law will punish all forms of discrimination” (Constitution of

the Republic of Ecuador 2008, 2011, art.11). At the same time, the State will welcome affirmative action measures, which are policies that protect minority groups that have suffered discrimination due to social injustice (International Convention on the Elimination of All Forms of Racial Discrimination, 2005). In 2009, the State assumed responsibility through a decree that the government put into effect, this is the so-called Plurinational Plan that aims to eliminate racial discrimination and ethnic and cultural exclusion by creating intercultural and plural citizenship to achieve Good Living (Marín Ordóñez, Right to Non- discrimination, 2018). Within this Plan, the development of social plans and training for public servants and citizens were proposed to encourage the participation of all sectors of society (Acosta, 2012). However, even the legislature must forge and follow a long path in which laws and decrees are promoted that in practice help to improve the social conditions of segregation. Within this Plan, the development of social plans and training for public servants and citizens were proposed to encourage the participation of all sectors of society (Acosta, 2012).

As for the rights to territoriality, this is a right that throughout indigenous history has been fighting hard to be obtained since the existence of each people depends directly on it. The concept of territory has the singularity of providing the historical and cultural continuity of the native peoples and offering them the opportunity for their development that was denied them centuries ago (García, 2001).

For indigenous nationalities, the Possession of these lands does not mean possession but is a more personal and spiritual matter, in what they want to achieve through the lands is to preserve their cultural legacy, carry out their daily life in their way and transmit this to future generations (Marín Ordóñez, Derecho to territoriality, 2018). In the current Constitution of Ecuador, this right is reflected, again, in article 57 in its numbers 5 -6 which in summary urge that there is possession of ancestral lands through free adjudication; so that in this way the native peoples can enjoy the use, usufruct, administration and conservation of the renewable resources that exist in these territories. While in numeral 4 of the same article 57 it is established that, “The imprescriptible property of the communities' territories must be preserved, and that these will be inalienable, untouchable and indivisible. In addition, these lands will be free from payment of fees and taxes” (Constitution of the Republic of Ecuador 2008, 2011, art.57). To substantiate the, in 2011, through ECORAE, the National Directorate for Investigation and Incidence of Public Policies carried out life plans and territorial management determined to the indigenous organizations and nationalities of the Amazon named as ancestral territories (Marín Ordóñez, Derecho to territoriality, 2018).

The rights to self-determination establish the principle of recognition of indigenous nationalities as peoples capable of choosing their future, so that self-determination will be governed by the non- discrimination of native peoples (Marín Ordóñez, right to self-determination, 2018). In 2010, the Population and Housing Census was carried out in the country, the right of self-

determination was considered in it, and it was fundamental to determine the living conditions of the indigenous peoples, Montubios and Afro-Ecuadorians. In the case of indigenous people, the Ministry of the Interior of Ecuador declared that: there are 14 nationalities in the country, corresponding to 7% of the population. These communities preserve their language and ways of life following their customs or traditions; they also have their social organizations and economic activities (Ministry of the Interior of Ecuador, 2016). Within the Constitution of Ecuador 2008 this right can be found in chapter 4 - article 57 in the numeral which states: "Maintain, develop and freely strengthen their identity, sense of belonging, ancestral traditions and forms of social organization" (Constitution of the Republic of Ecuador 2008, 2011, article 57). Given this, it must be respected that indigenous people maintain the practice of self-identification following their customs, traditions, and culture. At the same time, certain authors state that this right is the legal basis for all the collective rights of indigenous peoples (Oliva & Blasquez, 2007). This is because of the five dimensions surrounding the collective right can be determined, which are political: economy, culture, territory, and human right (Ortiz, 2003) that are essential for the development of social policies, resource allocation and definition of political quotas that will benefit the indigenous nationality (Marín Ordóñez, Derecho a la auto determinación, 2018).

Another of the rights is that of Intercultural Education, which in the same way can be found typified in article 57 numeral 14 of the Constitution of Montecristi, which says: "to develop, strengthen and enhance the bilingual intercultural education system, with quality criteria, from early stimulation to the higher level, in accordance with cultural diversity, for the care and preservation of identities in line with their teaching and learning methodologies" (Constitution of the Republic of Ecuador 2008, 2011, art. 57).

In the same way, in Title VII called the Good Living Regime of the Constitution, there is article 347, numeral 9, which states that "it will be the responsibility of the State: to guarantee the intercultural bilingual education system, in which the language of the respective nationality and Spanish as the language of intercultural relations will be used as the main language of education, under the guidance of the State's public policies and with full respect for the rights of the communities, peoples and nationalities "(Constitution of the Republic of Ecuador 2008, 2011, art.347). For this, in 2010 the Intercultural Education Law was implemented at the national level, which provides care to indigenous nationalities and carries out what is typified in article 57, numeral 14 through the establishment of the Directorate of Bilingual Education. This organization carries out language education programs and created the Undersecretary of Intercultural Education of the Ministry of Education, which implemented the Indigenous Human Talent Training Project. In parallel, the National Secretariat of Higher Education, Science, Technology and Innovation (SENESCYT) has an undergraduate and graduate scholarship program for people from Montubio, indigenous and Afro-



Ecuadorian communities, and likewise the State in the search to implement and improve intercultural education disseminates educational material in different aboriginal languages this also because there is an obligation that there is a 30% of radio programming in indigenous languages (Marín Ordóñez, *Derecho a la Educación Intercultural*, 2018).

According to the right of communication in Ecuador 14 languages have particularities and that is exceedingly difficult to translate into Spanish because each one of them represents different views of the world. Through language, it is possible to differentiate where a person comes from or to which society they belong; therefore, it is part of the identity of peoples (El Telégrafo, 2018). Also, it can be argued that talking about communication without understanding the social, cultural, economic, historical, social, political, and cultural processes that make up a social construction (Marín Ordóñez, *Right to Communication*, 2018); or that communication is talking about cultures and what culture is talking about different relationships, perceptions, and speech (Canoso, 2002). According to what is argued in the 2008 Constitution we can find in article 57 numeral 21 the following, “that the dignity and diversity of their cultures, traditions, histories and aspirations are reflected in public education and in the media; the creation of their own means of social communication in their languages and access to others without any discrimination” (Constitution of the Republic of Ecuador 2008, 2011, art.57). To support that this right is respected, the State granted 14 radio frequencies to certain indigenous nationalities, as well as the free expression. In 2013, the Organic Law of Communication was approved, which was modified in 2019, and expresses progress on community media, freedom of expression, access under equal conditions in terms of radio electronics and information and communication technologies; as well as that specialized legislation must be created to implement the exercise of this right in a free, intercultural, inclusive, diverse, participatory manner in all areas of social interaction by any means, in their language or their symbols (Organic Law of Communication, 2019).

Finally, the right to intercultural health is a concept that occurs in response to the claim of indigenous peoples and their right to cultural identity (Salaverry, 2010); It also has to do with the right to be differentiated between the community and thus provide a dignified coexistence to all those who live in the same territory (Marín Ordóñez, *Right to Intercultural Health*, 2018). It should be noted that this right is important for the indigenous community since it is part of their original way of life and culture and that the issue of traditional medicine is constitutionally recognized is an important achievement because before 1998 these practices were prohibited and persecuted by the law (Mozo, 2017). In the same way, as most of the previous rights, the right to intercultural health is expressed in article 57, numeral 2, which states, “guarantee the protection of the traditional medicine practices of the communities, peoples, and nationalities (Constitution of the Republic of Ecuador 2008, 2011, art.57); This numeral makes an explicit allusion to the field of health. Numeral 13 of the same article

could also be considered part of this right since the ancestral medicine of certain is denominated as a patrimony; this is how this numeral says: “To maintain, recover, protect, develop and preserve their cultural and historical patrimony as an indivisible part of the patrimony of Ecuador. To comply with this the State will provide resources for the effect of nationalities” (Constitution of the Republic of Ecuador 2008, 2011, art.57).

Once the constitutional rights of indigenous people have been enunciated, it would also be necessary to discuss other issues within the Constitution that have to do with this legislation, such as plurinational, the intercultural State, human rights and the Sumak Kawsay.

In 2008 a new Constitution was introduced that decrees that Ecuador is a plurinational and intercultural State. The rights of indigenous populations that were in the 1998 Constitution were expanded and multiculturalism was put aside to advance, but for the State to advance in indigenous rights it has to do with how societies, their institutions and indigenous organizations apply or give life to the Constitution (Grijalva, 2008).

Ecuadorian State is plurinational because it accepts the existence of various nationalities and peoples within this territory, it can also be said that there is a relationship with interculturality, although plurinationality exists and interculturality wishes to build a cultural framework that demands institutional mechanisms at the social level and political to achieve unity (Acosta A., 2010). However, the concept of nation is unique because multinationality does not have a single meaning; In the country, the idea of the nation includes three dimensions: political, legal, and cultural, which implies the indigenous notion of nationality (Trujillo, 2010). At present, plurinationality is part of the objectives of the Plan Toda Una Vida 2017 - 2021 to give value once again to the identities that constitute Ecuador, in addition, the introduction of the term represents diversity, the sense of belonging and adaptability. Finally, plurinationality promotes the recognition of the rights and responsibilities of equality, respect, social justice, equity, and solidarity, which are part of the Constitution of Montecristi, and which refutes all types of discrimination to promote cultural diversity (Mero Romero, 2018).

Plurinational State denotes recognizing indigenous peoples as actors and subjects of collective rights and incorporating these rights into the new structure of the State at the constitutional level (Huenchumilla, 2015). Certain critics of the matter say that plurinationality is an attempt to dismember the State (Frank, 1992); However, for indigenous leaders, this issue has to do with national integration, the recognition of their cultural differences, autonomy, and self-government so that equitable or intercultural relations exist between the different communities that live in the country. As a result, the Plurinational State is understood as an institutional solution that provides different cultural groups with, indigenous peoples or nationalities of the benefit of self-government as

well as their forms of representation and collective rights depending on the group for there to be equity and integration that admits indigenous differences and cultural equality (Cruz Rodríguez, 2012). In 2017, CONAIE, after having demanded and waited for 7 years for the previous government to accept dialogue, proceeded to hand over to the current president of Ecuador Lenin Moreno a project in an urgent state, to put into practice and build the Plurinational and Intercultural State since the implementation of the 2008 Constitution, this only remained in words and extraordinarily little progress was made. This plan presented by CONAIE consisted of five points that include a change in the economic model, construction of the Plurinational State, democracy, and human rights, planning and decentralization, and fighting corruption and impunity. Another point that the document wanted to achieve is that indigenous communities are considered in spaces for debate, political and economic definitions. The Amazonian indigenous communities were also present through CONFENIAE with historical claims that asked to be recognized as peoples that inhabit the jungle, for which they demanded the Right to Free, Prior and Informed Consultation in their territories for extractive activities (Chávez R., 2017). Finally, in 2019 the Amazonian indigenous communities were political and economic present through CONFENIAE with historical claims that asked to be recognized as peoples that inhabit the jungle, for which they demanded the Right to Free, Prior and Informed Consultation in their territories for extractive activities (Chávez R., 2017).

There were social protests by the indigenous communities in which the modification of the economic measures given by the government was requested since the fuel subsidy was withdrawn. However, the indigenous protest went beyond that, for the anthropologist Gabriela Eljuri the indigenous community wanted to be considered within government decisions so as not to be affected, and argues that indigenous people in recent decades have been key political actors in the history of the country because they have lived 500 years of resistance (Eljuri, 2019).

Human Rights are the principles, powers, and innate conditions of the human being, which allow them to achieve their life plans with dignity, which means that it constitutes a benefit, power, or power to act or demand (Directorate for the Protection of Rights, 2012). These rights can be constituted by principles, civil and political, economic, social, and cultural rights, groups that seek to establish a dignified existence for people regardless of their ethnicity, religion, nationality, sexual identity, culture, disability, given that the most important reason is universality (Marín Ordóñez, Human Rights, 2018). Now, the Human Rights that are recognized in the Constitution of 2008 are several, for example (Constitution of Ecuador of 2008, 2012):

- Rights of Good Living: this is the right to water, food, a healthy environment, communication and information, science and culture, education, habitat and housing,

health, work, and social security.

- Rights of People and Priority Attention Groups: groups of people who are in a disadvantaged situation such as adults and the elderly, young people, human mobility, pregnant women, girls, children and adolescents, people with disabilities, people with catastrophic illnesses, people deprived of liberty, users, and consumers. At the same time, this right has to do with the indigenous, Afro-Ecuadorian and Montubio people.
- Inherent Human Rights such as the right to land and territory, to cultural identity, to autonomy, justice and own right, consultation and participation in decision-making, development, intellectual property
- Rights of Freedom: to elect and be elected, participate in public affairs, present projects of popular normative initiative, be consulted, supervise the actors of the public power, revoke the mandate of all popularly elected positions, hold public office, form parties and political movements; the rules for the exercise of the right to vote; the equal representation of women and men alternately and sequentially.
- Protection Rights: they refer to comprehensive respect for their existence, the maintenance and regeneration of their vital cycles, structure, and evolutionary processes; rights to its restoration and application of precautionary measures and restriction of activities that may lead to the destruction of ecosystems or permanently alter their natural cycles.
- Right of Nature: according to article 71 of the Constitution, nature is a holder of the right and therefore its existence, maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes must be fully respected. Also, the natural reciprocity contract between human beings and the earth must be respected (Constitution of Ecuador, 2008, art.71).
- Other Human Rights: recognize and guarantee the inviolability of life, the right to a dignified life, personal integrity, formal equality, material equality and non-discrimination, free development of personality, freedom of opinion and expression of thought, the right to rectification of inaccurate statements in the media, freedom of conscience and religion, the right to make free decisions about their sexuality, life and sexual orientation, to make free, responsible and informed decisions about their health and

reproductive life, the right to reserve their convictions, conscientious objection, the right to associate freely and voluntarily, to move freely within the national territory and to choose their residence, freedom of economic initiative, freedom of work, the right to honor and good name, to the protection of personal data, to personal and family privacy; to the inviolability and secrecy of correspondence, to the inviolability of the home, the right to address complaints and petitions, to participate in the cultural life of the community, to have access to quality goods and services, to property in all its forms, with social and environmental function and responsibility, to live in a healthy environment and the right to identity.

Within the Ecuadorian Constitution, there is a chapter called Rights of good living, which covers from article 12 to article 34, divided into sections such as water and food, healthy environment, communication and information, culture and science, education, habitat and housing, health, work, and social security (Constitution of Ecuador of 2008, 2012). But why is this concept included in the Constitution of the Republic? Ecuadorian legislation uses Good Living as an information base, which defends on the one hand having, but above all being, being, doing and feeling, that is, living fully. Now, Buen Vivir is the Spanish translation of the word Sumak Kawsay in Kiwchua, which at the time of giving meaning is complicated since it does not have a linear concept because its meaning has been formed over time and it is constantly changing. For indigenous communities, the scope of Sumak Kawsay is greater, for example, it is an innate part of their daily life, it is the consequence of a dignified quality of life and death, loving and being loved, the healthy flowering of all individuals, the peace and harmony with nature, the prolongation of the town and biodiversity, and among more senses. Taking this understanding or worldview, it was intended to integrate indigenous nationalities into Ecuadorian legislation to make them feel part of it and allow them to have certain self-determination and mutual recognition, to carry out a shared social destiny (Ramírez Gallegos, 2012). Also, the preamble to the Constitution writes, “We decided to build: a new form of citizen coexistence, in diversity and harmony with nature, to achieve good living, the sumak kawsay; a society that respects, in all its dimensions, the dignity of individuals and communities” (Constitution of Ecuador 2008, 2012). It was intended to integrate indigenous nationalities into Ecuadorian legislation to make them feel part of it and allow them to have certain self-determination and mutual recognition, to carry out a shared social destiny (Ramírez Gallegos, 2012). Also, the preamble to the Constitution writes, “We decided to build: a new form of citizen coexistence, in diversity and harmony with nature, to achieve good living, the sumak kawsay; a society that respects, in all its dimensions, the dignity of individuals and communities” (Constitution of Ecuador 2008, 2012). It was intended to integrate indigenous nationalities into Ecuadorian legislation to make them feel part of it and allow them to have certain self-determination and mutual recognition, to carry out a shared social

destiny (Ramírez Gallegos, 2012).

In addition to the fact that this notion is reflected in the Constitution, there is also a National Development Plan that aims to make a positive fulfilment of Sumak Kawsay, their rights, and implies a comprehensive and inclusive vision so that no one is left out. This project is currently known as the National Development Plan for a Lifetime 2017 – 2021, according to articles 293 – 294 of the Constitution, the Plan is responsible for creating public policies and programs for social and human development, being the guide for policies, programs, and public projects and the execution of the State budget (ECLAC), to guarantee progressive access to their rights. The Plan is based on 9 objectives, which are: to guarantee a dignified life with equal opportunities for all people; affirm interculturality and plurinationality, revaluing diverse identities; guarantee the rights of nature for current and future generations; consolidate the sustainability of the social and solidarity economic system, and strengthen dollarization; boost productivity and competitiveness for sustainable economic growth in a redistributive and supportive way; develop productive capacities and the environment to achieve food sovereignty and rural Good Living; encourage a participatory society, with a State close to the service of the citizenry; promote transparency and co-responsibility for a new social ethic, and guarantee sovereignty and peace, and strategically position the country in the region and the world (National Planning Council, 2018). Finally, the project builds on the achievements of the past 10 years on good living and makes it clear that there are still new challenges to be met (ECLAC).

As has been evidenced in the 2008 Constitution of Ecuador, several rights can be found for indigenous nationalities and even national plans to make them effective. Even though at present, there is social equity in terms of plurinationality, this has not been enough for nationalities to be in total equality with other societies in the country.

### **1.2.3 The uncontacted communities**

In the first place, it is important to specify that it is an uncontacted community or also known as Peoples in Voluntary Isolation (PIAV). These are indigenous peoples or groups (IACHR, 2009) that do not maintain a relationship, communication, or sustained contact with people outside their environment, whether they are indigenous or settlers, this by their own decision. Also, these peoples may have had minimal contact with the outside society some time ago, several of them due to bad experiences or because they knew a different life that they did not like, they decided to return to their state of voluntary isolation and break all kinds of relationships with other societies (OHCHR, 2012). On the other hand, the history of these peoples and their constitutional rights are the same as those of

the indigenous communities in contact, that is, the same rights of all indigenous communities are the rights of uncontacted peoples since they are part of these nationalities. However, the fact that they are kept in isolation makes it difficult for their rights to be respected and put into practice.

The story about how these peoples in isolation came to possess their rights is interesting given that how isolation is going to be evidenced is not entirely voluntary. The uncontacted groups have been settled in Latin American territories for several years, even before the State structures are known today exist. Since the rubber industry arrived in the Amazon of Ecuador due to capitalist economic development and globalization, they have left effects such as the loss of cultural identity, the displacement of communities, destruction of the ecosystem, environmental contamination, and an increase in diseases because of contamination by the removal. In addition, this development in the Ecuadorian jungles brought sequels such as genocide and ethnocide of certain peoples such as Zaparo; All of this brought devastating results, which have already been mentioned, for the Amazonian indigenous communities and were factors that greatly influenced certain groups to decide to move away from "the outer life" to live in harmony with their environment and families. Thus, it can be shown that the isolation of these groups is not entirely voluntary but also forced. This is how this issue reached the ears of the international community and generated concern, these in response to the protection of life, rights, ecosystem, and territories of ancestral peoples, established international treaties and conventions that proposed that they be for the Amazonian indigenous communities and were factors that greatly influenced that certain groups decided to move away from "outside life" to live in harmony with their environment and families. Thus, it can be shown that the isolation of these groups is not entirely voluntary but also forced. This is how this issue reached the ears of the international community and generated concern, these in response to the protection of life, rights, ecosystem, and territories of ancestral peoples, established international treaties and conventions that proposed that they be for the Amazonian indigenous communities and were factors that greatly influenced that certain groups decided to move away from "outside life" to live in harmony with their environment and families. Thus, it can be shown that the isolation of these groups is not entirely voluntary but also forced. This is how this issue reached the ears of the international community and generated concern, in response to the protection of life, rights, ecosystem and territories of ancestral peoples, established international treaties and conventions that proposed that they be created and materialize the principles and guarantees for these peoples through the legislation of the country. This could protect peoples in isolation from external factors known as extractive companies, the government itself and even other indigenous nationalities (Coronado Vergara, Introduction, 2019). Ecuador adopts a new Constitution in 1998 and immediately ratified the ILO Convention on Indigenous and Tribal Peoples and at the same time the American Convention on Rights; that is when the Ecuadorian legislation had to ratify what the agreements dictated so that it could be applicable in the country, and thus protect the uncontacted peoples and their lands. In the same way, in 2006, the

IACHR granted precautionary measures in favor of the Tagaeri - Taromenane peoples in voluntary isolation against Ecuador for reasons that the government did not recognize that these peoples inhabited territories within blocks 31 and 43 of the Yasuní ITT.

In 2007, the National Policy for Peoples in Situation of Voluntary Isolation was issued, which states: “The Ecuadorian State has created the conditions to ensure the physical survival and preservation of the culture of peoples in a situation of voluntary isolation. The Tagaeri and Taromenane peoples and others who are in a situation of voluntary isolation are part of the history and cultural identity of the country; its existence is a collective patrimony; their well-being and development according to their cultural patterns, contributes to the construction of a more equitable and just country”. This policy established principles for the protection of peoples in isolation or initial contact about their rights and their territories, and they are intangibility, self-determination, reparation, pro hominy, no contact, cultural diversity, precaution, equality, and respect for human dignity (Presidency of the Republic, 2007). The set a precedent and was applied in the 2008 Constitution together with the collective rights of good living and respect for human dignity (Presidency of the Republic, 2007).

The 2008 Constitution stood out at the international level since it recognizes numerous rights to indigenous nationalities and therefore to peoples in voluntary isolation. It also has two Executive Decrees or special regulations that fully recognize the existence of the Taromenane and Tagaeri groups and thus guarantee their life and rights. In other words, the Decree 552 declared as a special conservation area for the Waorani groups; the same one that establishes: Art.1.- "Declare an intangible conservation area forbidden in perpetuity to all types of extractive activity, habitation lands, and development of the Waorani groups known as Tagaeri, Taromenane and other eventual that remain without contact, located to the south of the lands awarded to the Waorani nationality in 1990 and of the Yasuní National Park "(Executive Decree No. 552, art.1, 1999). - Art.2. - "Within the intangible zone, in accordance with the respective technical studies and in coordination with the representatives of the local population, an area within Yasuní National Park will be defined so that the Quichua populations along the Curaray River and the Waorani populations of the Cononaco River can carry out their traditional fishing and hunting activities, as well as moderate tourism activities" (Executive Decree No. 552, art.2, 1999).

On the other hand, the Montecristi Constitution mentions in the fourth chapter entitled Rights of communities, peoples, and nationalities, specifically art. 57: “The territories of the peoples in voluntary isolation are of irreducible and intangible ancestral possession, and all types of extractive activity will be prohibited in them. The State will adopt measures to guarantee their lives, enforce their self-determination and will to remain in isolation, and safeguard the observance of their rights. The violation of these rights will constitute a crime of genocide, which will be typified by law. ” In



addition, all the rights that are given in this chapter also apply to uncontacted groups (Constitution of the Republic of Ecuador 2008, 2011, art.57). Therefore, Lawyer Lisa Coronel argues that when these rights are enshrined in the Constitution, it means that the Ecuadorian State recognizes the Right of Territory and Self-determination of isolated groups, this is the starting point to recognize the existence, way of life and full development of these; then, if the text protects peoples in isolation and recognizes their rights, it would be understood that these mandates comply with perfection and integrity with the application of these (Coronado Vergara, Estado del Arte, 2019). Likewise, in the Comprehensive Organic Criminal Code, an article can be found that refers to genocide and ethnocide as crimes against humanity, which establishes Art. 80 – Ethnocide: “The person who, in a deliberate, widespread, or systematic manner, totally or partially destroys the cultural identity of peoples in voluntary isolation, shall be punished with imprisonment of sixteen to nineteen years” (Código Organico Integral Penal, 2014).

In the same way, the Mining Law in Title XII Of the procedure for the resignation of Mining Rights - General Provisions Sixth cites the following, “Prohibit all types of mining activity in the areas declared as ancestral territories of the peoples in voluntary isolation, following the provisions of the Constitution of the Republic” (Mining Law, 2015, Sixth General Provisions). That is why the Code of Territorial Organization, Autonomy and Decentralization in article 101 declares, “Indigenous peoples with recent contact and with special socio-economic characteristics derived from their dependence on the ecosystems present in their territory, will have the right to organize and manage their territory, in the way that best serves to maintain their culture and livelihood, following the Constitution and the law. In addition, the territories of the peoples in voluntary isolation are of irreducible and intangible ancestral possession, and all types of extractive activity will be prohibited in them. The State will adopt measures to guarantee their lives, enforce their self-determination and will to remain in isolation, and safeguard the observance of their rights” (Code of Territorial Organization, Autonomy and Decentralization, 2015, art. 101).

Likewise, for the peoples in isolation to exercise their Human Right to participate in matters of the social and political life of the State in the face of decisions that may affect the communities, their involvement must be fundamental, since in this way recreation could be safeguarded of these historical groups with their own culture and identities, in the face of decisions that may affect the communities (Defensoría del Pueblo de Ecuador, 2015). However, in 2013 the National Assembly released a Resolution, without consulting the indigenous peoples involved, in which they declared the exploitation of blocks 31 and 43 of national interest in an area no greater than one per thousand of the surface area of the Yasuní National Park, a place where indigenous communities and peoples in isolation live, and in the second point of this resolution, it states that the carrying out of extractive activities in the Tagaeri – Taromenane through Executive Decree No. 2187 of 2007. And finally, it

decrees that, according to the principles expressed in the Constitution, if people from peoples in voluntary isolation are sighted in these territories, activities must be suspended until the application of policies, protocols and codes of conduct that safeguard the rights to life and self-determination of the peoples (National Assembly, 2013).

The Ombudsman's Office in 2014 proposed the following about the peoples in voluntary isolation, after a violation of the rights of the Waorani Nationality regarding access to public information and natural and cultural heritage, and genetic resources occurred that it would have to be accepted by the National Assembly in the same year.

*“Reaffirm the right to self-determination that indigenous peoples in voluntary isolation have, which implies respect for their decision not to contact other human beings; for which, governments are called upon to adopt national policies and measures... through the adoption of mechanisms such as the establishment of intangible zones for indigenous peoples in voluntary isolation. Harmonize the internal laws of the States for the effective recognition of the ancestral possession of the territories of the peoples in voluntary isolation and its intangibility, which implies the prohibition of all types of extractive activity. Commit governments to the adoption of mechanisms such as permanent monitoring through methodologies that do not imply contact and that guarantee the self-determination of indigenous peoples in voluntary isolation. Equally, commit governments to classify the crime of forced contact with indigenous peoples in voluntary isolation, as an effective measure to prevent activities that may be carried out that endanger the life and integrity of these peoples. Governments must adopt environmental management plans that must necessarily contain the development of preventive and control programs for pollution levels in rivers and their watersheds that may affect the health of these peoples” (Rivadeneira Silva, 2014).*

In short, it is unquestionable that in Ecuador there is legislation that first recognizes and then protects the interests of peoples in voluntary isolation, this as evidenced not only manifested in the Constitution but in various Codes and Resolutions. Also, it is evident that in recent years the State has updated and introduced rights for peoples in isolation, but this for reasons that for a long time their rights have been neglected and disrespected. On the other hand, as already stated, the Assembly always announces new resolutions for the exploitation of non-renewable resources in areas inhabited by uncontacted peoples, always making it clear that no contact or abuse of rights can be made to these indigenous people. However, in recent years more Intangible Zones have been authorized by the Government for their exploitation, leaving aside the protection of the rights of peoples who live together in the sectors and prioritizing the economic interests of the State.

#### **1.2.4 The Constitution of Ecuador on the intervention of international organizations for the protection of the rights of uncontacted indigenous groups**

At the international and national levels, different scenarios generate controversies, and these are aspects that oblige States to act together, to seek a scenario where they can cooperate and create the necessary tools to solve certain problems that a single nation has or that two or more share (Manrique de Luna Barrios, 2017). Thus, the well-known international organizations were born that can be defined as any group, association or organized group that extends beyond the borders of a State or Nation that has a permanent organic structure to meet certain objectives based on the common good (Calduch, 1991). Ecuador is part of most international agreements on human and indigenous rights.

In the country, the organizations that have mostly been present on issues of the rights of indigenous peoples are the International Labor Organization (ILO) and the United Nations (UN) with their subsidiaries specializing in indigenous rights. These international entities have executed binding treaties and agreements with the Ecuadorian State to induce the government to protect indigenous peoples and their rights (Lema, 2017). However, the link between human rights and indigenous rights must be clear, since without the former the latter would not have occurred. For example, the United Nations Declaration on the Rights of Indigenous Peoples is based on the Council's recommendations of Human Rights (United Nations, 2007). In addition, the rights of indigenous peoples were created because in the first place, they had to have basic recognition as human beings and therefore inherent rights to protect them. Over the years indigenous peoples were recognized more and not just human rights but depending on the needs they had. To make effective the use of rights for indigenous peoples, Ecuador relied on international organizations and their treaties, which is why throughout the Constitution it can be found that the enjoyment of rights based on both in the Constitution as well as international instruments, particularly those of human rights (Constitution of Ecuador of 2008, 2012).

In the same way, in the 2008 Constitution there are texts about the intervention of international organizations in the matter of human rights, also indigenous rights and therefore the rights of peoples in voluntary isolation. In Section Six - Action for Non-compliance Art. 93.- "The action for non-compliance will have the purpose of guaranteeing the application of the norms that make up the legal system, as well as compliance with judgments or reports of international human rights organizations when the Norm or decision whose fulfilment is sought contains an obligation to make or not to make clear, express and enforceable. The action will be filed before the Constitutional Court" (Constitution of Ecuador of 2008, 2012, art.93). Also, in Title VIII International Relations, Chapter One - Principles of international relations numeral 9.- "It recognizes international law as a norm of conduct and

demands the democratization of international organizations and the equitable participation of States within them" (Constitution of Ecuador 2008, 2012, art.416). The Second Chapter Constitutional Court, Art. 436.- The Constitutional Court will exercise, in addition to those conferred by law, the following powers: "Know and resolve, at the request of a party, actions for non-compliance that are presented to guarantee the application of rules or administrative acts of a general nature, whatever their nature or hierarchy, as well as for compliance with judgments or reports of international organizations for the protection of human rights that are not enforceable through ordinary judicial channels" (Constitution of Ecuador of 2008, 2012, art.436).

In the same way, the lawyer and Master of Laws Daniela Salazar Marín argue that the Montecristi Constitution contains art. 424 "The Constitution is the supreme norm and prevails over any other in the legal system. The norms and acts of the public power must maintain conformity with the constitutional provisions; otherwise, they will lack legal effectiveness. The Constitution and international human rights treaties ratified by the State that recognize rights more favorable to those contained in the Constitution will prevail over any other legal norm or act of public power" (Constitution of Ecuador of 2008, 2012, art.424). This article must be interpreted together with article 417 Treaties and Instruments.

International: "The international treaties ratified by Ecuador will be subject to what is established in the Constitution. In the case of treaties and other international human rights instruments, the pro- human principles, of non-restriction of rights, of direct applicability and an open clause established in the Constitution will be applied" (Constitution of Ecuador of 2008, 2012, art. 417). There is a lot of talk about international treaties since they are formalized agreements in writing between States or subjects of International Law through international organizations (Salazar Marín, Incorporation through the normative hierarchy, 2013). It also deduces that Decree 1317 fully implies that the Ecuadorian State has the absolute will to enforce the judgments, reports and other decisions of international human rights organizations. And that, according to this Decree, the Ministry of Justice must coordinate the execution of sentences, precautionary measures, provisional measures, friendly agreements, recommendations, and resolutions originating from the Inter-American Human Rights System and the Universal Human Rights System, and other obligations arising by international commitments in this matter (Decree No. 1317, 2013).

Finally, the 2008 Constitution of Ecuador states throughout the document that the rights recognized in it and international instruments must be made effective, which makes it evident that the State considers as a supreme norm what international treaties ratified by Ecuador or dealing with human rights. However, as it was verified with the articles, there is much talk about the interference of international organizations in human rights, and even though these are related and merged with indigenous rights, nowhere in the Constitution are their texts related to the intervention of

international organizations for the protection of the rights of indigenous groups and much less of indigenous peoples in voluntary isolation.

## **Conclusion**

In summary, chapter I has focused on informing the ten nationalities and indigenous peoples of the Amazon, and above all describing the two groups in voluntary isolation that exist in Ecuador, the Tagaeri and Taromenane; emphasizing the life of the Tagaeri which is the community studied in the thesis. The investigated aspects were ethnographic, cultural, religious, and historical; of which it can be denoted that it has several similarities in its way of life. On the other hand, it was evident that the nationalities that have been in contact for the longest time have chosen to work in extractive companies that are within their territories, and therefore there has been acculturation that has resulted in the loss of traditions, cultures and even languages.

In the second part, a tour of the Ecuadorian Constitutions from 1978 to 2008 was given to learn what they say about the rights of indigenous peoples and PIAVs. In this way, it was found that the 1978 Constitution recognized the importance of indigenous languages as a fundamental part of national cultural integration, but despite this, it was still a text that had a foreign vision of the collective rights of indigenous peoples. The 1998 Constitution for the first time assumes it as a multi-ethnic and plurinational State, containing articles in favor of indigenous rights in terms of their identity, the environment, their territory, customs, discrimination and racism, and their traditional ways of coexistence and social organization. By last, the 2008 Constitution is recognized as evolving in terms of the rights of indigenous peoples and includes rights directed to peoples in isolation, although in this matter the State has not complied with the national policies for the protection of these peoples since the economic interests of the country prevail. Finally, the 2008 Constitution preaches that the rights of nationalities and indigenous peoples dictated nationally and those recognized in international instruments ratified by the country must be made effective. However, there is no specific article in the Magna Carta that states about the intervention of International Organizations in the field of human rights, which are linked to the rights of indigenous peoples although in matters the State has not complied with the national policies for the protection of these peoples given that the economic interests of the country prevail. Finally, the 2008 Constitution preaches that the rights of nationalities and indigenous peoples dictated nationally and those recognized in international instruments ratified by the country must be made effective. However, there is no specific article in the Magna Carta that states about the intervention of International Organizations in the field of human rights, which are linked to the rights of indigenous peoples although in matters the State has not complied with the national policies for the protection of these peoples given that the economic interests of the country prevail.

## **CHAPTER 2**

### **INTERNATIONAL PROTECTION OF THE RIGHTS OF INDIGENOUS PEOPLES AND NATIONALITIES**

The next chapter will investigate in a more profound way the rights recognized at the national and international level of indigenous peoples and therefore of groups in voluntary isolation. Therefore, first, the rights that these groups possess in a general way will be revealed in a literal way, in order in the following statement to make known the international instruments that protect the rights of indigenous and uncontacted peoples, which are recognized by the Ecuadorian State. Then, through the analysis of three important and renowned cases in South America on the exploitation of non-renewable resources and violation of the rights of indigenous nationalities, it will be possible to link the use and importance of international instruments on the rights of indigenous peoples in the present thesis case.

#### **2.1 The rights of indigenous peoples and nationalities**

Again, as is generally known, indigenous peoples around the world and for centuries were ignored by society and much more by States and their legislators, since they were considered as inferior beings and were deprived of minimal rights because they were subject to the will of the white man. It has also been a group that has suffered slavery, persecution, and even extermination by “developed” societies (Berraondo López, 2000). It can be included that the rights of indigenous nationalities are recently protected by international society. Going into history, it is evident that the well-known international protection treaties or conventions safeguarded only certain rights since for several centuries the main problem facing the world was the modification of borders because of wars. The conflicts also brought a negative result that persists to this day; When the war ended, the peoples and nationalities that inhabited the territory came to belong to nations other than their own, thus becoming members of cultural, linguistic, or ethnic minorities, and sometimes these peoples were divided by borders given to the new political entity that was created (Defensoría del Pueblo Ecuador, 2011).

In the same way, there is a perception that states that indigenous peoples were isolated from international law because they were not part of independent states, and international law was

exclusively the one that regulated relations between states. The judgment pronounced was maintained until the twentieth century when fundamental human rights were proclaimed and, in this way, the protection systems for individuals were founded, and from this several States are obliged to respect and guarantee their rights, changing the traditional conceptions of international law. Likewise, the indigenous people began to be noticed in the national and international legal structures, but to achieve this; the peoples have gone through a long journey of constant struggles (Berraondo López, 2000).

In the 60s is when the voices of indigenous peoples began to be heard to defend their rights and take care of their cultures, the pioneering indigenous people in leading this struggle were those of the United States, Canada, New Zealand, and Australia, who began their struggle motivated by decolonization and were supported by civil and political rights movements. In the 1970s, indigenous organizations emerged that denounced the situations that their brothers lived in all over the world, because indigenous national entities organized themselves to form part of regional organizations; which in turn were part of international indigenous organizations; they could exert greater pressure on international society. Finally, in 1982, the United Nations, after several complaints from indigenous peoples on labor issues, created a sub commission for the prevention of discrimination and protection of minorities with the intention of promoting the protection of these peoples in the international arena (Berraondo López, 2000).

Although indigenous peoples continue to suffer intimidation and violations of their rights, this has led them to build strong international movements in recent times, making themselves known as human beings who have directly influenced state policies on indigenous matters. Thus, the laws of the States have had to be rectified in favor of the protection of the ways of life of these groups and, against genocidal policies or that only assimilate indigenous peoples. Therefore, at present, most of the society does not doubt the condition of indigenous people as human beings and their entitlement to human rights. The challenge of these times is to define the rights of these peoples and adapt them to their needs, and this is where international law plays a leading role, which is why it is argued that it is no longer only a matter of States, but also of the people who can benefit from international law (Berraondo López, 2000).

## **2.2 Main international instruments for the recognition and protection of your rights**

Considering what has been expressed previously, indigenous organizations have found in international organizations support so that within their States they are recognized and considered in legislation, therefore they are also part of important international structures that have strong

influences on the subscribed countries.

Ecuador is part of several important international human rights organizations, which also recognize the rights of indigenous peoples. Next, the most important instruments that recognize and protect the rights of indigenous nationalities in Ecuador will be described.

### **2.2.1 ILO Convention No.169**

This is an agreement created by the International Labor Organization, which is a specialized agency part of the United Nations that deals with labor matters and labor relations (International Organization of Employers). Since its inception in 1919, it has always been attentive to the condition of indigenous and tribal peoples, thus in 1957, it adopted the first binding international instrument called Convention No. 107 on Indigenous and Tribal Populations in Independent Countries.

Subsequently, in 1989, the International Labor Conference took place, which through the participation of governments, employers 'and workers' organizations, which Convention No. 169 relative to indigenous and tribal peoples in independent countries was adopted; Different indigenous groups also participated and were consulted in the revision process of the Convention. During this conference, it was demonstrated that indigenous peoples around the world do not have access to rights in the same way as the rest of the population of the countries where they live and that they are vulnerable to the violation of their rights, customs, and perspectives. Similarly, it was found that this specific group has the lowest socioeconomic and employment indicators due to their ethnic or racial origin, which substantially worsens income gaps (Tinoco, 2014) and those are vulnerable to the violation of their rights, customs, and perspectives.

From here comes Convention 169, which is a fundamental part of the action in favor of social justice for fair globalization of the ILO. The document is made up of two basic postulates that are: “the right of indigenous peoples to maintain and strengthen their own cultures, ways of life and institutions, and their right to participate effectively in the decisions that affect them” (Tinoco, 2014). These antecedents are the basis for interpreting the provisions of the Convention. Furthermore, the treaty ensures that indigenous and tribal peoples decide their priorities for development and their own economic, social, and cultural development *ibid*.

On the other hand, when the member states ratify an ILO convention, they undertake to prepare national legislation and develop pertinent actions following what is dictated by the body. Likewise, the State undertakes to periodically report on the application in practice and the statute of the provisions of the Convention, as well as to answer questions, observations, or suggestions from the ILO supervisory bodies (Tinoco, 2014). In October 2017 was the last time that the Convention was



reinforced, and it was ratified by 22 countries, including Ecuador (International Labor Organization, 2017).

However, Convention 169 is made up of 46 articles that establish the minimum standards of respect for the rights of indigenous nationalities, such as ownership of their lands, the natural resources of their territories, the preservation of their traditional knowledge, self-determination, and prior consultation. At the same time, the Convention recognizes individual and collective rights to employment, health, and education (Tinoco, 2014). Finally, the objective of this Agreement is to reach agreements between the State and the Community or to seek the consent of the people or group concerning the projects that each government wishes to carry out in the territories they inhabit (Acosta Cárdenas, Introduction, 2010).

Ecuador ratifies the Convention in May 1998 and enters into force by publishing it in Official Gazette No. 296 in June 1999. During this period, Ecuador enacts a new Constitution that includes the right to Prior Consultation as part of the Collective Rights of indigenous peoples. During those years and until the creation of the current Constitution 2008, the regulations that were revalidated in the legislation were those of Environmental Management; in the same way, it can be found in Ecuador Const. art 57 and articles 395 - 398 (Acosta Cárdenas, Introduction, 2010). In each update that this Convention has had, Ecuador has ratified it, being the last time in 2017 (International Labor Organization, 2017). In Ecuador, With the ratification of Convention 169, the courts of justice must apply the same when hearing and substantiating a case regarding the rights of indigenous peoples, as well as the State has been able to justify the application of the Convention at the national level (International Organization of the Work, 2009). Also, the Convention, according to the normative hierarchy, is at the same level as the Ecuadorian Constitution, since it is an international human rights treaty, art. 424 – 425 of the Constitution of Ecuador 2008.

Regarding the peoples in voluntary isolation, the Convention does not have articles specifically dedicated to the peoples in voluntary isolation or initial contact, although it focuses on this group respecting their beliefs and spiritual well-being is given their vulnerability, it also recognizes the freedom of decision of these populations, their free development in their activities and the implementation of effective mechanisms for the protection of their territories (International Labor Office, 2019). These objectives led the international community to carry out the Regime of the rights of indigenous peoples in voluntary isolation with certain normative instruments such as Article 17 of ILO Convention 169 which argues, "The peoples concerned should have the right to decide their priorities regarding the development process, insofar as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or use in any way"; and art. 18 of the Convention that says, "the law shall provide appropriate sanctions against any unauthorized intrusion into the lands of the peoples concerned or any unauthorized use of the same by outsiders to them, and governments

must take measures to prevent such infractions” (International Labor Office, 2014). These two articles have been ratified in the Ecuadorian Constitution of 2008, which is the first Magna Carta that considers and protects uncontacted Indians. It is important to emphasize that, according to the Inter-American Commission on Human Rights; Convention 169 is the main international instrument for the protection of indigenous rights and particularly on the rights of peoples in voluntary isolation. The importance of this is based on its article 14 which manifests the right of their ancestral territories to safeguard their existence, culture, and worldview (Marroquin Hernández, 2020).

In conclusion, ILO 169 Declaration is the greatest reference that exists in terms of the protection of indigenous peoples, including groups in voluntary isolation, thus it has helped to protect the countries that have ratified the Convention about indigenous people against discrimination and violation of rights that they suffer from both internal and external factors in their countries. In addition, the Agreement has caused several legal systems and institutions, including that of Ecuador, to have a transformation in terms of indigenous rights and in this way, it have proven to be an effective international instrument, especially in Latin America (Rodríguez - Piñero Royo, 2018). Finally, ILO 169 Convention includes a broad recognition of the cultures of indigenous nationalities, peoples, communities or groups and their needs for daily life *ibid*.

### **2.2.2 United Nations Declaration on the Rights of Indigenous Peoples**

Since the 1970s, the United Nations has made efforts to create a document that specifically addresses the issue of the protection of indigenous peoples internationally. In this way, in 1982 the Economic and Social Council constituted the so-called Working Group on Indigenous Populations with which was intended to create minimum standards for the protection of indigenous peoples; This Group was developed after a study carried out by José Martínez Cobo, who is an Ecuadorian politician and diplomat who carried out the study on the problem of discrimination against indigenous populations in 1971 (Zolla & Zolla Márquez, 2004). This group presented its first draft declaration to the Subcommittee on Prevention of Discrimination and Protection of Minorities, which was approved in 1994. It was then exposed to what was known as the Human Rights Commission for approval and submission to the ECOSOC (Economic and Social Council of the United Nations) and the UN General Assembly. However, the process was slow because some States expressed their concern about the draft Declaration on the Right to Free Determination and Control of Natural Resources in the Ancestral Lands of Indigenous Peoples. Given this, it was seen the need to touch on these controversial issues to reach an agreement, thus the However, the process was slow because some States expressed their concern about the draft Declaration on the Right to Free Determination and Control of Natural Resources in the Ancestral Lands of Indigenous Peoples. Also, it was seen the

need to touch on these controversial issues to reach an agreement, thus the open-ended inter-sessional Working Group to work on the draft Declaration made in 1994 and may be approved by the UN bodies already pronounced during the International Decade of the World's Indigenous Peoples. Between 2005 – 2006, the Working Group chaired by the Peruvian Luis Enríquez Chávez drew up a document with the different proposals discussed during the group's meetings, which became the main text for the draft Declaration on the Rights of the Indigenous peoples; This Declaration was adopted by the UN Human Rights Council in June 2006 (Department of Economic and Social Affairs, Indigenous Peoples, 2017).

The Declaration that is known today was approved by the General Assembly on September 13, 2007, to have an immediate effect on the rights of indigenous peoples in the world. It is a complete text that contains 46 articles that raise issues such as identity, collective, cultural, health, education, employment, and other rights; It is worth mentioning that the Declaration highlights that indigenous peoples have the right to persevere and strengthen their traditions and culture as well as to work for their development following their needs and aspirations, so this international instrument benefits indigenous peoples in their constant fight against discrimination and racism. On the other hand, each anniversary of the commemoration of the UNDRIP becomes a space where States, funds, agencies, United Nations programs and indigenous leaders assess the challenges and progress of the implementation of the Declaration in their States (Department of Economic and Social Affairs Indigenous Peoples, 2017).

It can be noted that the United Nations Declaration on the Right of Indigenous Peoples for the UN is a type of resolution; therefore it has a recommended value for the States parties and not a binding force (Zalaquett Daher, The United Nations Declaration on the Rights of Indigenous Peoples, 2008). However, the Declaration is a strong example of resolution because it is considered “a solemn instrument, used only in incredibly special cases, of great and true importance, and when it is hoped to obtain maximum observance by the greatest number of States possible” (United Nations, 2008). Likewise, it can be argued that the Declaration establishes both negative and positive obligations for the States; the first is not to discriminate or not to violate other fundamental rights of indigenous peoples, and the positive ones are to guarantee and consult indigenous peoples on matters that are important to their daily lives. Finally, the legal nature of the text cannot deduce that it is its own body or protection mechanism (Zalaquett Daher, 2008, pp. 142-143). However, art. 42 of the Declaration reads “The United Nations, its organs, including the Permanent Forum for Indigenous Issues and specialized agencies, particularly at the local level, as well as the States, shall promote respect for and full application of the provisions of the present Declaration and will ensure the effectiveness of this Declaration” (United Nations Declaration on the Rights of Indigenous Peoples, 2007).

Regarding the ratification of the United Nations Declaration on the Right of Indigenous Peoples

in Ecuador, the country was part of the first 143 countries that voted in favor of the adoption of the Declaration in 2007 (United Nations, 2008). As is well known, the 2008 Constitution is recognized for being in favor of Human Rights and the Rights of Indigenous Peoples, including in it what is ruled by International Organizations on the matter. Even though Ecuador ratifies the Declaration in 2007, it is reflected the following year in the Constitution, so its first article defines the country as a Plurinational and Intercultural State, considering principles of Public International Law such as pluralism legal, diversity, equality, and indigenous jurisdiction (Fundación Regional en Asesoría en Derechos Humanos, 2010). Also, articles 56 to 60, 71 – 74 and articles 96 – 96 – 97 – 98 – 99 of the Constitution were created in conjunction with articles 3 – 4 – 5 of the Declaration, which recognize that there are indigenous authorities who will know, resolve, and sanction the conflicts of their communities according to their ancestral traditions. In the same way, the Constitution states on the prior consultation of indigenous peoples and nationalities to make decisions about projects in their territories, these articles are also following art. 19 – 39 of the Declaration (Regional Foundation for Human Rights Advisory, 2010, p. 11). In other words, the 2008 Constitution of Ecuador had a great influence from the UNDRIP when promoting the laws of indigenous nationalities since it is a text that brings together the indigenous rights that have been agreed upon internationally, and thus the Declaration directs the States so that by applying these laws they act with public policies that guarantee the rights (Fundación Regional en Asesoría en Derechos Humanos, 2010, p. 80).

Finally, the Ecuadorian State has always been involved in the advances and new resolutions that have been given in the United Nations Declaration on the Right of Indigenous Peoples, for example, in November 2020 it presented to the General Assembly (as co-facilitator of the Social, Humanitarian and Cultural Commission) measures necessary to increase the participation of representatives and institutions of indigenous peoples in United Nations meetings on issues that concern them (Department of Economic and Social Affairs, Indigenous Peoples, 2021). In the national scenario, the Ombudsman's Office is the institution in charge of enforcing Human Rights and therefore the Rights of indigenous peoples, which is why since 2012 it has created projects to make indigenous communities known throughout the country their rights, and with the help of the United Nations Office for Development, they created courses to convey the Declaration. Likewise, the Ombudsman's Office oversees informing the Office of the United Nations High Commission for Human Rights on how it is carried out and the results of the application of national policies that implement the Plan of and with the help of the United Nations Office for Development; they created courses to convey the Declaration. Likewise, the Ombudsman's Office oversees informing the Office of the United Nations High Commission for Human Rights on how it is carried out and the results of the application of national policies that implement the Plan of national action to achieve the purposes of the United Nations Declaration on the Rights of Indigenous Peoples (Defensoría del Pueblo Ecuador).

On the other hand, the Declaration, although it is called a complete document, does not include specific articles referring to indigenous peoples in voluntary isolation, but it does have quite relevant articles that help to protect them. Such is the case of article 3, which emphasizes the right of self-determination, which is of particular importance for these peoples who wish to remain in isolation, also based on this right peoples in voluntary isolation can freely determine their political situation, their development social, cultural, and economic (United Nations Declaration on the Rights of Indigenous Peoples, 2007, art.3). Similarly, the right of self-determination allows isolated peoples to have the collective right to live in freedom, peace and security and not being subjected to acts of genocide, violence or forced transfers of children (United Nations Declaration on the Rights of Indigenous Peoples, 2007, art.7.2). Also, you can find art. 8.1 Which says: "indigenous peoples and individuals have the right not to be subjected to forced assimilation or the destruction of their culture" (United Nations Declaration on the Rights of Indigenous Peoples, 2007, art.8) be a right that is accompanied by the obligations of the States to prevent such assimilation, so that the fulfilment of obligations by the States, such as preventing the deprivation of their integrity, their cultural values, their ethnic identity and the protection of their territory is essential for their survival (Inter-American Commission on Human Rights, 2013). At the same time, the Declaration protects the conservation protection of the environment that is a fundamental part of the life of these peoples in isolation, as well as allows them to maintain the right to their traditional medicines and to maintain their health practices using their medicinal plants, animals, and minerals (United Nations Declaration on the Rights of Indigenous Peoples, 2007, art.24).

In conclusion, the rights are of utmost importance for the preservation of peoples in voluntary isolation through respect. In addition, they are rights that the Constitution of Ecuador, based on the Declaration, has considered to protect these peoples, thus becoming the guardian of the lives of the uncontacted.

### **2.2.3 American Declaration on the Rights of Indigenous Peoples**

In America, what the Inter-American Human Rights System has contributed in an elementary way, through the Commission and the Inter-American Court of Human Rights, is in terms of the protection of indigenous peoples. The story behind this Declaration goes back to the 1970s (Ach  with Paraguay, 1977) when in Washington DC in 1989 (Toro, 2013), through a mandate from the OAS General Assembly, opened the elaboration of the Declaration of Indigenous Peoples, later in 1997 the Commission presented to the OAS Permanent Council a document called the Draft American Declaration on the Rights of Indigenous Peoples (OAS, 1997). In the 2000s, the Inter-American Commission established the Rapporteur ship on the Rights of Indigenous Peoples to

strengthen its work (Inter-American Court of Human Rights, 2001). Regarding the protection of these peoples, in 2009 the OAS Department of International Rights through the Program of Action on the Indigenous Peoples of the Americas, which was one of the organizations most involved in cooperating for the promotion and participation of the indigenous peoples both in national and international processes; finally, in 2016 and after several years of joint work between the OAS, NGOs, civil society and different indigenous representatives, the OAS General Assembly approved the American Declaration on the Rights of Indigenous Peoples (Clavero, 2016). However, during and until the end of the construction of the Declaration, an attempt was made to negotiate with the States parties to avoid having any type of observations, but Brazil, Canada, Colombia, and the United States did not agree with the interpretation of different articles such as those related to self-determination, consultation and consent, natural resources, lands, and territories (Añaños Bedriñana & Hernández Umañ, 2019). For this reason, the countries mentioned are part of the Declaration but in certain articles, they have their interpretation. The OAS General Assembly approved the American Declaration on the Rights of Indigenous Peoples (Clavero, 2016). During and until the end of the construction of the Declaration, an attempt was made to negotiate with the States parties to avoid having any type of observations, but Brazil, Canada, Colombia and the United States did not agree with the interpretation of different articles such as those related to self-determination, consultation and consent, natural resources, lands and territories (Añaños Bedriñana & Hernández Umañ, 2019).

This OAS Declaration has 41 articles divided into six sections entitled: indigenous peoples, the scope of application and scope; human and collective rights; cultural identity; organizational and political rights; social, economic and property rights; and general provisions. In the final part of the document, you can find the interpretation notes of the Colombian delegation and in footnotes that of Brazil, Canada, and the United States (General Assembly - Organization of American States, 2016). The Declaration is called a legal instrument that recognizes collective and individual rights of indigenous peoples, such as the obligations of the American States with these peoples (Roberto & Jacanamijoy Jacanamejoy, 2016). Also, its legal nature is declaratory; therefore, it constitutes recognition of rights that will be used by an international judge to verify the rights or situations, or it can be used for the interpretation of treaties, conventions or other acts that oblige the States. In other words, the Declaration is a mere recommendation that serves for the American States to act with certainty (Añaños, 2020).

On the other hand, the Declaration has several important characteristics. In the first place, it is a text created from the United Nations Declaration on the Rights of Indigenous Peoples, as well as considering ILO Convention 169 (Añaños, 2020, pp. 278 - 279). Second, it is not only a Declaration that includes the same rights as always but also considers gender equality, the right for a person to belong to more than one indigenous people, recognizes sustainable and equitable development; and

finally, it has articles specific for the protection of indigenous peoples in voluntary isolation (Organization of American States, 2016).

Regarding the application of the Declaration in the Ecuadorian State, as previously pronounced, this OAS Declaration was promulgated in 2016, which is why it was after the creation of the 2008 Constitution that is in force in the country; However, the Declaration has been a valuable instrument in terms of reinforcing the rights of indigenous peoples and even more so regarding the rights of indigenous peoples in isolation, which before this document were very little known or taken into account (Gouritin & Aguilar, 2017 ). Also, the Declaration in Ecuador has been important in recent years for indigenous peoples when taking their cases to international justice (Inter-American Court of Human Rights) against those who have violated their rights reflected in national and international legislation.

One of the most important points within this Declaration is the one that explicitly considers indigenous peoples in voluntary isolation. This is found in the fifth section entitled “Social, Economic and Property Rights” article XXVI “Indigenous peoples in voluntary isolation or initial contact” and they say (American Declaration on the Rights of Indigenous Peoples, article 26, 2016):

1. Indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and following their cultures.
2. The States shall adopt appropriate policies and measures, with the knowledge and participation of indigenous peoples and organizations, to recognize, respect, and protect the lands, territories, environment, and cultures of these peoples, as well as their individual and collective life and integrity.

In other words, this is the first international instrument that makes specific references to indigenous peoples in voluntary isolation. Similarly, the Declaration has provisions regarding the rejection of assimilation, protection against genocide, the right to identity and cultural integrity, the right to free spirituality and beliefs, protection of the environment, the right to self-government, and the right to its way developmental, which are rights that reinforce the application and protection of the human rights of these isolated peoples (American Declaration on the Rights of Indigenous Peoples, 2016). Proof of this was that, in September 2020, the IACHR presented the case of the Tagaeri and Taromenane indigenous peoples in voluntary isolation concerning Ecuador before the Inter-American Court; becoming this in the first case related to the peoples in isolation. The case exposes international responsibility of the Ecuadorian State for a succession of violations of the rights of the Taromenane – Tagaeri peoples in isolation, in the scenario of extractives projects that affect their ways of life,

territories and natural resources. It also exposes three acts of violent deaths of members of the peoples that occurred in 2003, 2006 and 2013 that had a lack of adequate protection measures (Inter-American Commission on Human Rights, 2020).

Finally, it can be said that the American Declaration on the Rights of Indigenous Peoples is a complete document that puts into context the fundamental human rights for indigenous peoples as well as certain current rights that are necessary for their daily life. In the same way, the Declaration puts into context important rights for indigenous peoples in voluntary isolation that were not considered before the document. Based on the Declaration of the OAS in Ecuador, cases of violation of the rights of these peoples have been exposed and will soon be brought to international justice; as well as the State has seen it necessary to implement measures for the protection of these groups in this way it safeguards the life of this minority group in danger and complies with what was agreed in the Declaration.

In conclusion, it is known that both the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 are the main instruments for the protection of the rights of indigenous peoples, worldwide, and despite that do not contain specific articles on the rights of the PIAV the regulations that mostly protect the uncontacted are the rights of consultation, territory, and autonomy, finding these expressly clear and concise. Likewise, the American Declaration on the Rights of Indigenous Peoples is the most important regional instrument for the safeguarding of the rights of these peoples. In addition, as America is one of the regions with the greatest presence of peoples in voluntary isolation, it has been fundamental for this instrument to dictate a document that includes different protection rights towards non-contact peoples; the same ones who have seen the HDI System, of which the Declaration is part, a protection institution with better efficiency than their governments. Finally, it is evident that these international instruments deepen the rights of indigenous peoples and serve as a basis or support for their member states.

## **2.2.4 Other international instruments**

Since the approval of the UN Universal Declaration of Human Rights in 1948, States have found it necessary to debate, negotiate and agree on various fundamental principles and legal provisions aimed at safeguarding and promoting civil, cultural, and economic rights, political and social (Annan, 2002, p. 19); these principles are known as international instruments that are universal documents that serve as a legal source for international human rights law and help to protect human rights in general (OHCHR). International instruments can be separated into two groups: binding and non-binding. The first is the international treaties known as pacts, statutes, protocols, conventions, or conventions that are binding on the States that ratify them. The second are the declarations, principles,



guidelines, uniform norms, and recommendations, which, despite not being binding, have the moral force and offer practical recommendations to the States (United Nations, 2002). The following is a series of binding and non-binding international instruments, in chronological order, that serve as a source and support for the protection of the rights of indigenous peoples and indigenous peoples in isolation.

## **Agenda 21 - Rio Declaration on Environment and Development**

This is a Declaration that was given in June 1992 during the United Nations Conference on Environment and Development; it is based on the Declaration of the 1972 United Nations Conference on the Human Environment. The objective was to establish an alliance global equitable by creating levels of cooperation between States, key groups in society and individuals; In this way, the member states can reach international agreements that respect the interests and protect the integrity of people such as the environmental system and world development (Department of Economic and Social Affairs Division of Sustainable Development, 1992).

Similarly, Project XXI was created in 1992 during the same United Nations Conference on Environment and Development, to promote sustainable development. The project details actions that UN entities, together with member states and groups involved in the issue, must undertake at the local, national, and global level in the different areas where there are human impacts on the environment (United Nations Department of Public Information United, 2002).

Finally, both instruments recognize indigenous peoples as the main group and state that efforts must be made by the States so that there is well-known sustainable development through the recognition, promotion and strengthening of indigenous peoples (United Nations Organization for the Food and Agriculture, 2011).

## **The United Nations Convention on Biological Diversity 1992**

The Convention on Biological Diversity known as CBD was agreed through the United Nations Environment Program and remained open for States to have the signature option during the United Nations Conference on Environment and Development named Earth Summit that was held in June 1992 in Rio de Janeiro. After one year, in December 1993, the Convention entered into force and is called an almost universal international treaty; given that it has more than 196 contracting parties, including most of the UN member states, except for the United States, and countries that are not part of the organization (Government of Spain - Ministry for Ecological Transition and the Demographic Challenge, 2011).

The Convention is a legally binding international instrument with the conservation of biological

diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits derived from the use of genetic resources; being its main objective is to promote the measures so that they lead to a sustainable future. In addition, the CBD embraces biological diversity at all levels that are: ecosystems, species, genetic resources, and biotechnology; In other words, it covers all possible domains that are directly or indirectly related to biological diversity and its role in the development of science, politics, education, agriculture, business, and culture (Convention on Biological Diversity, 2009). Finally, The Convention recognizes the dependence of indigenous communities on the traditional way of life based on biological resources, for which it argues that the aforementioned must exist regarding the fair and equitable sharing of the benefits derived from the use of traditional resources, innovations and practices relevant to the conservation of biological diversity; and states that it will respect and promote, through the approval of those who master the use of ancestral knowledge, practices based on the conservation and sustainable use of biological diversity (United Nations, 1992).

### **World Conference on Human Rights: Vienna Declaration and Program of Action 1993**

In 1968, in the city of Tehran, the first world meeting to discuss human rights was convened by the United Nations. In 1989, the UN General Assembly convened a meeting of all countries to analyze the progress they had made in human rights after the approval of the Universal Declaration of Human Rights in 1948, other objectives of the meeting was to point out the problems that existed and create solutions to overcome them. Later, in 1993, the program of the World Conference on Human Rights celebrated the forty-eighth session of the General Assembly during which 171 approved the final document of the Vienna Convention, considering what had been discussed in past sessions for example development, democracy, rights economic, social, cultural, civil, and political. For the world this was an important milestone for several reasons. The first, during the Conference, which lasted two weeks, gathered approximately 7,000 expert delegates on the subject such as academics, national institutions, bodies created because of treaties and different non-governmental organizations, so it can be argued that it is a document constructed consciously and complete. Second, it gave rise to cooperation between international organizations and national bodies regarding the protection of human rights. Third, it is one of the first statements made on the protection of the rights of women, children, and indigenous peoples (Office of the High Commissioner for Human Rights, 2013). Bedroom, the Declaration consolidated important principles, such as the universality of human rights, and put into context the obligation of states to abide by them. Finally, the declaration led the United Nations to decide to establish the position of High Commissioner for Human Rights so that when there are cases of violation or threats against rights, he acts on the matter (Ki-moon, 2013).

Ecuador, again, was part of the 171 States that approved the Declaration and has also been ratifying and accepting its modifications. Since the 1998 Ecuadorian Constitution, the Vienna

Declaration was considered for the drafting of certain human rights articles (Elena, 2005), in the current Montecristi Constitution as well. For example, this is reflected in art. 57 - 58 where the rights of indigenous peoples are guaranteed and recognized following what is agreed in treaties, agreements, or declarations (Constitution of Ecuador, 2008, art.57-58). Agree with this, The Declaration specifically states the indigenous population and says that “States must reaffirm their international commitment to ensure the enjoyment of all human rights and fundamental freedoms of these populations and to respect the value and diversity of their cultures and identities. And recognizes the intrinsic dignity and incomparable contribution of indigenous populations to the development and pluralism of society and firmly reiterates the determination of the international community to guarantee their economic, social, and cultural well-being and the enjoyment of the benefits of sustainable development. States must guarantee the full and free participation of indigenous populations in all aspects of society.

In short, the Vienna Declaration and Program of Action was an important step for the international scene in the field of human rights, and it was a step forward since it included issues that were not previously taken into accounts, such as violence against women and the protection of Indigenous villages human rights. Even though the Declaration expresses briefly about indigenous peoples and does not speak about indigenous peoples in isolation, there is no doubt that it was key to the creation of national and international organizations and instruments that are currently part of those that protect these minority peoples.

### **United Nations Conference on Environment and Development - Rio +20**

In 2012, the United Nations Conference on Sustainable Development called Rio +20 was held, which was also called a projection of the desired world for the future. On this occasion, 193 UN member states participated together with thousands of knowledgeable people from various sectors of civil society, to take up the problems raised in 1992 and the new adversities. What this new conference proposed was to agree on several audacious measures to reduce poverty, promote decent employment, clean energy, and the sustainable and adequate use of resources; that is why the Rio +20 Conference was developed based on concepts of sustainable development and development with inclusion and green economy (Khoury, Barrios, Andreau, & Lovisa, 2018, pp. 12-13).

Within the principles of this updated Conference, it is proposed to improve the well-being of indigenous peoples and ethnic minorities while respecting their cultures (Khoury, Barrios, Andreau, & Lovisa, 2018, p. 14). It also distinguishes the fact that indigenous peoples are an important part of the application of sustainable development strategies in the global, regional, national and subnational

scenarios; In the section "A green economy in the context of sustainable development and the eradication of poverty" number 58-j says that the well-being of indigenous peoples should be improved by recognizing and supporting their cultural identity and interests so as not to endanger their cultural heritage (United Nations Conference on Sustainable Development, 2012, pp. 11-12). In addition, in the point of Biological Diversity, it is stated that "traditional knowledge, innovations and practices of indigenous peoples and local communities make an important contribution to the conservation and sustainable use of biological diversity and its broader application can boost social well-being and sustainable livelihoods; and that indigenous peoples are constantly the most directly dependent on biological diversity and ecosystems, and therefore often the most immediately affected by their loss and degradation " (United Nations Conference on Sustainable Development, 2012, p. 44).

Ecuador was part of the 193 countries to be present at the Rio +20 Conference and intervened in the arduous debates to reach environmental agreements and sustainable development. Before the Conference and based on the 1992 Conference, Ecuador already had an idea of caring for the environment and sustainability that are expressed in the 2008 Constitution, in addition, what the government wanted to achieve was to achieve a new energy matrix and a new paradigm of sustainability to approach Good Living, which is a fundamental part of the Magna Carta and of the life of the country's indigenous populations. On the other hand, after the Conference, the Ministry of Heritage coordination developed the new objectives based on what was agreed, these objectives are supported by four proposals that are: good living, financial architecture, and culture, as an articulator of the social, environmental, and economic dimensions (Technical Secretariat Planifica Ecuador, 2012).

In summary, the first Conference of 1992 marked a world milestone in terms of environmental rights and sustainable development, without neglecting indigenous peoples who are recognized as the protectors of nature. In Ecuador this first stage was taken to be able to face the socio-environmental problems of the time due to oil extraction and for the appearance of national environmental organizations that put the relationship between the environment and community participation in context (Varea, 2018). While the Rio +20 Conference happened when Ecuador already had a constitution that considered the environment and indigenous peoples, what happened at that time was that the State, taking the recommendations of the Conference, created programs to sustainably apply certain extraction or energy projects, and on the other hand, enforce what its laws say. Also, the Conference was the basis for the Yasuní ITT Initiative, which later gave way to the creation of more environmental organizations and the protection of the rights of indigenous peoples (Estenssoro Saavedra & Vásquez Bustamante, 2018).

## **UNESCO Universal Declaration on Cultural Diversity 2001**

The UNESCO Universal Declaration on Cultural Diversity occurred at a controversial and historically important time in the world, that is, it was adopted unanimously in Paris on November 2, 2001, during the 31st session of the General Conference of UNESCO and two months after the attack on the Twin Towers in New York. This was a novel legal instrument since it promoted cultural diversity as a cultural heritage of humanity and advised on how to safeguard people's dignity through respect. The Declaration proposed cultural variety as a diversity of ways in which cultures are expressed in a society, for example, artistic creation, production, dissemination, distribution, and enjoyment by the various generations that inhabit the planet (Matsuura, 2003). In addition, The Declaration reiterates that respect for cultural diversity; tolerance, dialogue, and cooperation developed in an environment of trust and understanding are tools that guarantee international peace and security (UNESCO, 2001). Also, the Declaration instills that the individual must be recognized in all its form including the plural nature of their own identity, in this sense it is possible to preserve cultural diversity as a source of expression, creation and innovation (Matsuura, 2003). Even more important was that the Declaration inculcated the revision of international cooperation models at the time that it put into debate the cultural dimension in the realization of development strategies and programs, to publicize the relationship that exists between culture and both national and international projects. For Finally, the Declaration promoted the creation of new legal instruments that will safeguard cultural expressions and put in context new legal instruments such as intangible cultural heritage, multilingualism in cyberspace, and cultural expressions such as cultural industries (Ministry of Culture Peru, 2011).

As for what the Declaration of indigenous peoples expresses, the document is noticeably clear when it says that in the world there is a wide diversity of cultures, obviously including indigenous peoples, who must exercise their cultural rights that can be found in different international instruments including UNESCO. Within the Declaration, art. 4.-Human rights, guarantors of cultural diversity say: “the defense of cultural diversity means respect for the dignity of human persons; therefore it implies a commitment to human rights and fundamental freedoms, especially the rights of minorities and indigenous peoples. No one can claim cultural diversity to violate human rights guaranteed by international rights” (UNESCO Universal Declaration on Cultural Diversity, art.4, 2001). Likewise, in Annex II, point 14, it states that, “the traditional knowledge of indigenous peoples must be protected and respected, and the contribution they make to the environment and resource management must be recognized. There must also be a correlation between modern international science and local knowledge” (UNESCO Universal Declaration on Cultural Diversity, 2001) and recognize the contribution that they have in terms of the environment and resource management. There must also be a correlation between modern international science and local knowledge” (UNESCO Universal Declaration on Cultural Diversity, 2001).

On the other hand, Ecuador is one of the 182 states that ratified the UNESCO Declaration in 2001. In addition, in the 2008 Constitution, the Declaration was considered for the creation of articles on nature, indigenous peoples and good living; An example of this is the National Plan for Good Living or Whole Life, which considers the following article important to “recognize diversity as a substantial part of society through intercultural learning, which allows us to nourish ourselves with worldviews, knowledge, epistemologies and cultural practices diverse” (National Development Plan 2017 - 2021 - *Toda Una Vida*, 2017) which is related to the principles of the Declaration on cultural diversity (Sen, 2011). In the same way, Good Living (*Buen Vivir*) proposes the construction of a plurinational and intercultural State within a unitary State in which the entire population can peacefully coexist. Therefore, it expresses that it is essential to promote knowledge of the cultural diversity of Ecuador since it is a basic element for the dissemination of indigenous nationalities, as well as for their life plans and their ancestral territories (Abad Merchán, 2011).

### **Resolution of the World Conference of Indigenous Peoples – 2014**

In December 2010, the UN General Assembly through a resolution proposed to develop a high-level plenary meeting, which would be planned for 2014 and would be called the World Conference on Indigenous Peoples. This meeting was the first the conference focused on the subject and held in New York, the objective of the Conference was to exchange points of view to improve the realization or projects on the rights of indigenous peoples and included the fulfilment of the objectives of the Declaration of Nations United on the rights of indigenous peoples. In addition, several round tables were held during the meeting, which at the end of the Conference presented a Resolution to the President of the General Assembly, who in turn through an informal interactive audience with representatives of the United Nations, academic institutions, and national rights institutions of human beings, representatives of indigenous peoples, non-governmental organizations, and civil society; in 2015 the final document it released (World Conference on Indigenous Peoples, 2014). The resolution revealed the concern of the extreme disadvantage in which indigenous peoples found themselves, which was demonstrated through a series of social and economic indicators, which were and are obstacles that prevent the full enjoyment of their rights to women indigenous nationalities (UNDP, 2015). In the same way, the Resolution in its 40 points makes known the commitments acquired by indigenous peoples and reaffirms the commitment of the States to respect, promote, promote, and not undermine in any way the rights of indigenous peoples to also comply with the principles of the United Nations Declaration on the Rights of Indigenous Peoples (Gehrig & Muñoz Sánchez, 2015). The resolution revealed the concern of the extreme disadvantage in which indigenous peoples found themselves, which was demonstrated through a series of social and economic indicators, which were and are obstacles that prevent the full enjoyment of their rights to indigenous women nationalities (UNDP, 2015).

As can be seen in the Declaration, it is all about indigenous peoples and their rights, but above all, it reveals how States must carry out their compliance to continue with compliance with the United Nations Declaration on Human Rights. It was created because it was demonstrated that the States were not complying with their commitments for the correct management of indigenous rights. Also, the goal was to facilitate the cooperation of indigenous peoples with state institutions to promote their participation in local, regional, national, and international processes. Finally, the Resolution considers the support that must be provided to the Member States so that they consider the rights and opinions of indigenous peoples for the construction of international norms (Del Popolo, 2017).

In conclusion, the Conference held in 2014 was an international setting provided for debate between academics, delegates from member states, indigenous representatives, among others to bring out the mistakes made by not complying with the commitment of the United Nations Declaration on the Rights of indigenous peoples. As a result of the Conference, a Resolution was developed that was accepted in 2015, in which projects were presented for the States to carry out plans for compliance with the Declaration and for new projects to be carried out in favor of the rights of the peoples natives. It is for this reason that Ecuador promoted the work and leadership of indigenous women so that these groups leave poverty behind.

### **International Covenant on Civil and Political Rights - International Covenant on Economic, Social and Cultural Rights (New York Covenants)**

The International Covenant on Civil and Political Rights was adopted by the UN General Assembly in December 1966, entered into force in March 1976, and as of 2012, 167 member states have ratified the Covenant (OHCHR, 1976). Similarly, the International Covenant on Economic, Social and Cultural Rights was adopted by the UN General Assembly through the same resolution as the previous Covenant, it was also adopted in December 1966 but was ratified in January 1976 and until 2017 it has been ratified by 166 member states (OHCHR, 1976). The union of these two covenants together with the Universal Declaration of Human Rights forms the International Bill of Human Rights of the United Nations (OHCHR).

On the other hand, both Pacts recognize the right to self-determination of the peoples, which is important for the protection of the rights of indigenous peoples in isolation, because based on this right, indigenous peoples can freely, establishes their political status as their own economic, social, and cultural development (ICCPR, article 1, 1976). Likewise, in the two Pacts, article 2 states “all peoples can freely dispose of their wealth and natural resources, without prejudice to the obligations that derive from international economic cooperation based

on the principle of reciprocal benefit, as well as international law, in no case may a people be deprived of its means of subsistence” (ICCPR, art.2, 1976). Article 27 of the International Covenant on Civil and Political Rights states that “In States where there are ethnic, religious or linguistic minorities, the persons belonging to said minorities shall not be denied the right that corresponds to them, in common with the other members of their group, to have their own cultural life, to profess and practice their religion and to use their language” (ICESCR, art.27, 1976). It is important to emphasize that, in America, the countries in which there is a presence of indigenous peoples in voluntary isolation have ratified both international covenants and are therefore subject to the agreed obligations (OAS, 2013) in common with the other members of their group, to have their own cultural life, to profess and practice their religion and to use their language” (ICESCR, Article 27, 1976).

### **Protection guidelines for indigenous peoples in isolation and initial contact of the Amazon region, the Gran Chaco, and the Eastern Region of Paraguay**

In 2015, an action project for the International Decade of Indigenous Peoples was presented by the United Nations General Secretary the purpose of the program was to recommend that a global instrument be established to control the situation of indigenous people’s indigenous peoples in voluntary isolation and especially those who are in danger of extinction. Once the program was established, their first action was to suggest that a special protection mechanism to be adopted for these peoples and that the States where they live establish special policies to safeguard the rights and lives of the peoples in isolation since they are small groups and are in danger of extinction (UN General Assembly, 2005). Due to the recommendations, in 2006 a seminar was held in Bolivia in which public institutions, international agencies, representatives of States, academics, experts, and indigenous organizations participated; The seminar concluded with an appeal named "Santa Cruz Appeal" (Permanent Forum for Indigenous Issues, 2007) which published a series of recommendations on respect for non-contact, protection of territory and natural resources, cooperation in the international arena. , contingency plans on health issues and other issues (OAS, 2013, p. 25). Based on the Appeal, the Permanent Forum for Indigenous Issues suggested to OHCHR that together with indigenous peoples' organizations, NGOs, States, international organizations and experts, protection guidelines be drawn up for uncontacted indigenous groups (Permanent Forum for Indigenous Issues, 2007). For this reason, in 2007 a second seminar was held this time in Ecuador, and the main theme was the design of public policies and action plans to guarantee the right to health of peoples in isolation and initial contact (OHCHR, 2012, p. 25).

Similarly, in 2012 the OHCHR announced the so-called Protection Guidelines for Indigenous



Peoples in Isolation and Initial Contact in the Amazon region, the Gran Chaco, and the eastern region of Paraguay (OHCHR, 2012, p. 25), which forms the first document that a UN body establishes specifically on indigenous peoples in the initial contact and voluntary isolation (OAS, 2013, p. 25). These Guidelines include several principles and action programs that were created and accepted by all those involved in the preparation of the document; The Guidelines are based on the principles of respect for the right to life and physical and cultural integrity, the right to self-determination and non-contact, and the protection of lands, territories and natural resources traditionally occupied and used by indigenous peoples in voluntary isolation and initial contact (OHCHR, 2012, p. 26). Finally, it is important to emphasize that one of the most important issues within the Guidelines is about the right to prior consultation of peoples in isolation, and the document states that “it must be interpreted taking into account their decision to remain in isolation and The need for greater protection of indigenous peoples in voluntary isolation given their situation of vulnerability, which can be seen reflected in their decision not to use this type of participation and consultation mechanism ”(OHCHR, 2012, p. 26).

### **The Escazú Agreement - 2018**

In Latin America, the inequality and exclusion created by the immense environmental crisis, does not allow their countries to have the typical development that occurs worldwide. In addition, the excessive damage to ecosystems, on which humans depend directly, and the excessive consumption of non- renewable natural resources immensely affect people or groups in vulnerable situations. Given this, changes have been demanded to face the environmental and climate crisis, and one of the demands has been better public management and a support base in society to face these problems (Bárcena, 2020).

For these reasons, the creation of the Escazú Agreement began. In 2012, during a UN Conference on Sustainable Development (Rio +20), the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean was signed; This Declaration led to the adoption of the Santiago Decision in 2014 by the 24 countries that signed the Declaration. Later, these States negotiated for 4 years through the delegations of Chile and Costa Rica, which were called the Board of Directors. Thus, the member states of ECLAC, the organization that supported the negotiations as technical secretariat, adopted the Escazú Regional Agreement on March 4, 2018, in the city of Escazú (Costa Rica).

This is a Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean; and its objective is: “to guarantee the full and effective implementation in Latin America and the Caribbean of rights of

access to environmental information, public participation in environmental decision-making processes and access to justice in environmental matters, as well as the creation and the strengthening of capacities and cooperation, contributing to the protection of the right of each person, of present and future generations, to live in a healthy environment and to sustainable development”. Furthermore, it is an important instrument for the region since it is the first binding agreement issued by the Rio +20 Conferences on Sustainable Development (UN); also, it is the first regional environmental agreement, and it is interesting because it addresses specific disagreements about human rights defenders in environmental matters (ECLAC). On the other hand, the Escazú Agreement's mission is to comply with the 2030 Agenda for the sustainable development of the United Nations. Likewise, it is an agreement between States that raises three democratic rights, such as access to information, public participation, and access to justice; and includes in the implementation of these rights people or communities who have been excluded in decision-making, as rights holders and even as agents of change despite being a fundamental part of a future sustainable environmental development. This Agreement based on environmental democracy demonstrates the commitment of the States of Latin America and the Caribbean with the rights of people to be part of the decisions that affect their environment and life. That is to say, the region is one of the areas that contain extensive forests, immense biodiversity and a hundred numbers of communities that inhabit its forests, so when these inhabitants are included in the taking of Decisions about the environment they inhabit is a great step in the inclusion of minority groups and caring for the environment (Bárcena, 2020).

However, the period to be part of this Agreement was from 2018 to 2020 in which 24 States ratified their commitment to it. Since the signature period is over, the Agreement will enter into force on April 22, 2021 (ECLAC). It can be noted that Ecuador ratified the regional agreement on May 21, 2020, making it the ninth country to be a party to the treaty. The Ministry of Environment says that it is an agreement that will allow the State to make environmental information transparent and at the same time protect environmental rights defenders, because Latin America was the region where most environmentalists were murdered (Basanites, 2020). In addition, the Ministry argues that the ratification of the Agreement demonstrates the Government's commitment with the different civil social organizations to join efforts and protect environmental democracy (Ministerio del Ambiente y Agua, 2020).

Finally, it is important to mention what David Fajardo, part of the Yasunidos collective, says: “This Agreement is of great importance to us, the protectors of environmental and indigenous rights since for the first time we will be able to obtain truthful information about the nature of our country and how bad it is going, we will also be part together with indigenous peoples in making important decisions for the protection of their lives and cultures. If the State does not protect us or the indigenous people, who will protect the forests, and therefore the survival of the world” (Fajardo

Torres, 2021). However, it must be emphasized that not all countries that have ratified the Agreement will have to comply with all the obligations set forth therein. Therefore, in the case of Ecuador, it will be necessary to wait until the Agreement enters into force to evaluate the regulations and laws proposed by the State to comply with the objectives of the treaty (Basantes, 2020).

In conclusion, the Escazú Agreement will be a promising international instrument, especially for the Latin American and Caribbean region, which is one of the areas with the most forests, biodiversity, and ancestral communities. It is expected that this Agreement, which has already been ratified by Ecuador, will serve to protect not only the Amazonian forests but also those that inhabit them and those who protect them, so national and international social organizations will be attentive to what the State Ecuadorian proposes for the fulfilment of the obligations given by the Agreement.

In summary, as of 1948, when the UN Universal Declaration of Human Rights was ratified, it was necessary for different international instruments specializing in different topics to be developed on the world stage so that States could comply with and incorporate these universal human rights into their regulations. Conferences, agreements, declarations, programs, and pacts were created on this issue that is legally binding instruments, of which Ecuador is mostly a party, on the rights of indigenous peoples. For another on the other hand, these international agreements were created to respect the interests and protect the integrity of the indigenous people, but without neglecting the environmental system or the conservation of biological diversity, since they are issues that go hand in hand. Likewise, not all instruments directly protect peoples in voluntary isolation; however, most of the rights of indigenous peoples are of utmost importance to the uncontacted. Furthermore, the various international instruments issued were established by the United Nations and its different bodies, including UNESCO, OHCHR and the General Assembly. Finally, it is evident that the international instruments for the protection of the rights of indigenous peoples are of utmost importance for the survival of the peoples since they are the strongest instance, they must defend themselves through the national or international level.

### **2.2.2 International Organizations for the Defense of the Collective Rights of Indigenous Peoples and Nationalities**

On the international scene, specialized agencies can be found in important issues, these can be international organizations (IO) and non-governmental organizations (NGOs). The IOs refer to the organizations that are constituted by subjects of Public International Law, they must also be under the regulation and have an international presence; in other words, an IO must be made up of several members and rules. Its objectives must be consistent with the purpose of the organization and its

action must extend throughout the planet. These institutions are usually or refer to as intergovernmental organizations (Coll Morales). Similarly, the French jurist Michael Virrally defines international organizations as “an association of States, established by an agreement between its members and endowed with a permanent apparatus of organs, in charge of pursuing the achievement of objectives of common interest through cooperation between them” (Virally, 2020). The IO is not a single entity, therefore there are different types, in this matter, we are going to focus on specific international organizations since they follow a specific purpose, which in this case is the protection of the rights of indigenous peoples (Coll Morales). On the other hand, Non-Governmental Organizations correspond to institutions that work through the contribution of their members to promote development programs (Pineda, 2011). For the United Nations, an NGO is a voluntary organization made up of non-profit citizens and can be national or international (United Nations, 2011). Similarly, the Organization for Economic Cooperation and Development defines an NGO as “an organization founded and governed by a group of private citizens with a declared philanthropic purpose, and sustained by private individual contributions” (OECD, 2011). It can be noted that non-governmental organizations can be of three types: political, social, and economic (Pérez Ortega, Arango Serna, & Sepulveda Atehortua, 2011). In other words, NGOs are not for profit, they are dedicated to a social or humanitarian purpose, they are governed by citizens, they are financed with the help of governments, companies, individuals, or other NGOs, and all their members seek the same mission and vision (Coll Morales).

Next, the most important International Organizations and Non-Governmental Organizations that have as their objective the development of projects and the protection of the rights in favour of indigenous peoples in the world will be described.

## **International organizations**

### **The Office of the High Commissioner for Human Rights**

In 1993, the UN General Assembly founded the Office of the High Commissioner for Human Rights, a few months after the Vienna Declaration was adopted, becoming the main entity of the United Nations in the field of Human Rights. This is a representation of the responsibility and commitment that the world must protect and promote human rights and freedoms dictated by the Universal Declaration of Human Rights. The functions performed by this body are to: promote and protect all human rights, help empower people, advise governments, and formulate a human rights perspective in all United Nations programs (OHCHR).

Regarding the rights of indigenous peoples, the Office of the High Commissioner plays an

important role in the advancement of indigenous issues and the application of the United Nations Declaration on the Rights of Indigenous Peoples. For this reason, it actively cooperates with the UN Development Group to promote and implement its guidelines on Issues Relating to Indigenous Peoples, as well as being part of the training program on indigenous issues for the United Nations Teams and the OHCHR field offices. Likewise, the Office collaborates with the development of capacities of indigenous peoples through the scholarship program for indigenous representatives, which has had a great impact worldwide. Other activities in which it operates in the field of indigenous peoples is that it assists the Special Rapporteur on human rights of indigenous peoples and assists the Mechanism of Experts on the Rights of Indigenous Peoples; works hand in hand with the United Nations Voluntary Fund for Indigenous Peoples when reporting on the use of funds to the UN Secretary-General. Lastly, the entity carries out different activities at the national and regional levels to promote the rights of indigenous peoples, such as providing support for initiatives works hand in hand with the United Nations Voluntary Fund for Indigenous Peoples when reporting on the use of funds to the UN General Secretary. Lastly, the entity carries out different activities at the national and regional levels to promote the rights of indigenous peoples, such as providing support for initiatives works hand in hand with the United Nations Voluntary Fund for Indigenous Peoples when reporting on the use of funds to the UN Secretary-General. Lastly, the entity carries out different activities at the national and regional levels to promote the rights of indigenous peoples, such as providing support for initiatives legislative and carry out activities on aspects such as extraction companies and the rights of indigenous peoples in the initial contact and voluntary isolation *ibid*.

### **Permanent Forum for Indigenous Issues**

First, the Forum is an advisory body to the UN Economic and Social Council. It was established in 2000 by Resolution 2000/22, to investigate indigenous issues related to economic and social development, culture, environment, education, health, and human rights (Department of Economic Affairs and Social Indigenous Peoples UN, 2000). It is made up of 16 independent experts who act in their capacity, that is, eight members proposed by governments and another eight who are part of indigenous organizations from different regions of the world (United Nations Permanent Forum on Indigenous Issues, 2007).

The first session that the Forum held was in May 2002, since then they have been held every year and the meetings are usually held at the United Nations headquarters in New York. It can be noted that the Forum is part of the three UN mechanisms aimed at specific issues of indigenous peoples. On the other hand, its objective is to promote the rights of indigenous peoples with the help of the Trust Fund on Indigenous Issues, which makes it easier for it to follow up on the recommendations, raise awareness, and disseminate indigenous issues; It also facilitates the Forum

with the representation and participation of the members of the Permanent Forum on Indigenous Issues in important meetings (Department of Economic and Social Affairs, UN Indigenous Peoples, 2000). Similarly, the permanent Forum is in charge of various matters, such as specialized advice and the formulation of recommendations on indigenous issues to the Council, and also to the UN programs, funds and agencies; increases awareness and promotes integration and coordination of activities related to indigenous issues within the United Nations system; prepares and disseminates information on indigenous issues; and Promotes respect and full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples and ensures its effectiveness (UNDRIP, art.42, 2000). UN funds and agencies; increase awareness and promotes integration and coordination of activities related to indigenous issues within the United Nations system; prepares and disseminates information on indigenous issues; and Promotes respect and full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples and ensures its effectiveness (UNDRIP, art.42, 2000).

On the other hand, each time the Forum meets at the end it presents a report on how the countries have worked on that year's topic of debate. For example, in 2020 the main theme was “Peace, justice and effective institutions: the role of indigenous peoples in the fulfilment of Sustainable Development Goal 16”. In this Forum, an Ecuadorian representative, Lourdes Tibán Guala, participated in particular and will be part until 2022 (Permanent Forum Secretariat, 2020). Finally, in the different reports Ecuador is quite considered for different reasons; the first because within the country various indigenous peoples form approximately 7% of the total population and they actively participate in the world and national scene to protect their rights; the second is because the 2008 Constitution is recognized as being for human and indigenous rights, which is why the international media is always attentive to what is developed within the country to comply with its legislation (Cabrero, 2014).

### **United Nations Voluntary Fund for Indigenous Peoples**

The Contribution Fund is an agency of the United Nations that was established on December 13, 1985, through a resolution of the General Assembly. Its purpose is to financially assist indigenous organizations that aspire to participate in the decisions of the Working Group on Indigenous Populations; the Fund can assist indigenous groups thanks to the voluntary contributions of governments, NGOs, individuals, and other public entities and private. The Fund is supervised by the UN Secretary-General and is advised by a Board of Trustees. The Board is made up of five experts on indigenous peoples' issues and they are elected by the Secretary-General; in turn, the Board is obliged to report to the Secretary-General on how funds are used through OHCHR. In 2001 the UN decided

that the Fund could be used so that indigenous communities are part of the Permanent Forum for Indigenous Issues as observers, also in 2012, the General Assembly resolved that the Fund could assist leaders of indigenous communities to represent your communities at the World Conference on Indigenous Peoples (OHCHR). That is, the Fund ensures that indigenous peoples' leaders who represent their community; who are promoting positive rights changes; who are victims of rights abuses; who are rights advocates; and who can contribute to a better understanding of issues affecting indigenous peoples, have the means to travel from their villages to the country where the meeting, convention, board on indigenous peoples' rights or involving indigenous peoples is taking place (OHCHR, 2016, pp. 3-12).

In the report presented by the Contributions Fund in 2016, it states that 2,000 indigenous representatives have obtained assistance from the Fund and have achieved important objectives such as, when an indigenous leader raises his voice in UN meetings, a better vision of the problem is offered and an international awareness of the conditions of indigenous peoples is created (Ra'ad Al-Hussein, 2016). Similarly, they have had the opportunity at the different meetings to build alliances with other communities, NGOs, and experts or to exchange ideas to strengthen their projects to protect the rights of their peoples. Finally, through the help of the Fund, indigenous representatives have made their presence felt on the international stage, and together with the United Nations, they have had notable advances in international human rights standards for indigenous peoples, such as the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations Declaration on the Rights of Indigenous Peoples, and the United Nations Declaration on the Rights of Indigenous Peoples rights of Indigenous Peoples or the development of bodies part of the High Commissioner Permanent Forum on Indigenous Issues and the UN Special Rapporteur on Indigenous Peoples (OHCHR, 2016, p. 3).

### **Expert Mechanisms on the Rights of Indigenous Peoples**

The EMRIP was established in 2007 by the United Nations Human Rights Council as a subsidiary body. The body is made up of seven independent experts on issues of rights of indigenous peoples, the members are elected by the Human Rights Council, among which there are experts of indigenous origin and various genders. Every year the entity has a session that lasts five days in which representatives of the States, leaders and organizations of indigenous peoples, intergovernmental organizations, academics, and civil society participation; and each meeting deals with a different topic or focuses on a specific region of the world. This group oversees advising on issues associated with the indigenous world as well as assisting Member States to achieve the objectives agreed in the UN Declaration on Indigenous Peoples. Also, the body oversees researching to promote the protection and

promotion of the rights of these peoples. The studies they carry out explain the implications of fundamental principles such as self-determination and free, prior, and informed consent; disclose appropriate practices to carry out different challenges related to the rights of indigenous peoples; and proposes measures that States, and other agents can adopt in terms of laws, policies, and programs. On the other hand, all studies and research conducted by the agency are public and often also serve as a basis for activities carried out by other organizations (OHCHR).

In 2016, the mandate of the Expert Mechanism was modified, which consists of providing the Human Rights Council with assistance in specialized knowledge on indigenous rights based on the Declaration on Indigenous Peoples; and advise the member states, upon request, so that they can achieve through the promotion, protection, and realization of the rights of peoples what is agreed in the Declaration (UN General Assembly, 2016). Finally, to make all the recommendations already mentioned, the Expert Mechanism takes into consideration the United Nations Declaration on the Rights of Indigenous Peoples, when international Labor Organization Convention on Indigenous Peoples and Tribal in Independent Countries, No. 169, the International Covenant on Economic, Social and Cultural Rights, the Convention on Biological Diversity, the Convention on the Rights of the Child, the United Nations Framework Convention on Climate Change, and among other international instruments related to the promotion of the rights of indigenous peoples (OHCHR).

### **World Intellectual Property Organization (WIPO)**

This United Nations body is a world forum concerning services, policies, cooperation, and information on intellectual property issues, created in 1967 and currently has 193 member states. Its objectives are to develop an effective international intellectual property system that enables innovation and creativity for global benefit; and measure the performance and budget planning of WIPO's activities. Similarly, one of its important activities is to advise governments, companies, and societies to realize the benefits of intellectual property. WIPO also provides a policy forum in which to shape balanced international IP norms for a changing world, provides global services to protect intellectual property worldwide and to resolve disputes, offers technical infrastructure to connect IP systems and share knowledge, organizes cooperation and capacity building programs to enable all countries to use intellectual property for economic, social, and cultural development, and provides a global reference source for IP information (WIPO).

The Organization also protects the rights of indigenous peoples and protects the intellectual property rights of this group because they maintain a cultural and intellectual heritage of their traditional knowledge and ways of life, such as information, practices, beliefs, and philosophical ideas



(WIPO, 2000). However, this protection only came about 10 years ago when the Member States negotiated to draw up an international legal instrument on intellectual property, genetic resources, traditional knowledge, and traditional cultural expressions. Finally, through WIPO's Traditional Knowledge Division, the Organization assists member states to develop policies, strategies and laws that strengthen the practical capacity of indigenous peoples to effectively use existing intellectual property instruments (Wendland, 2019).

### **The Fund for the Development of Indigenous Peoples of Latin America and the Caribbean**

Is an international organization created in 1992 with headquarters in La Paz - Bolivia and which is called public law, the purpose of the Fund is "to support the processes of self-development and promotion of the rights of indigenous peoples, communities and organizations of Latin America and The Caribbean, whose governing and operating bodies are based on equal relations between States and Indigenous Peoples". In addition, it is made up of 22 member states, 19 belonging to Latin America and the Caribbean and the other three being Belgium, Spain, and Portugal. One of your goals is be the main, or only, body specialized in promoting Development directed to Good Living or Sumak Kawsay of indigenous peoples and protecting their collective and individual rights, through dialogue between indigenous organizations and government sectors (FILAC).

Finally, FILAC has created programs based on three axes: the first, called Economic Development with Identity, supports the design and implementation of initiatives aimed at the Good Living of indigenous peoples based on the recognition, protection, and promotion of the exercise of economic, social, cultural, political, and environmental rights of indigenous communities. The second is the Dialogue and Agreement program, which promotes and supports national and international dialogue processes aimed at building agreements and commitments to implement public policies of parity relations and thus pursue the recognition, protection, and effective enjoyment of both individual and collective rights of indigenous peoples. Finally, the third program aims to strengthen the capacities of both men and women to achieve recognition, transformation, and generation of conditions for the recognition and effective respect and enjoyment of the rights of indigenous peoples, all this through the promotion of research, training, systematization and dissemination of knowledge and ancestral technologies of indigenous peoples (FILAC).

### **Non-governmental organizations**

## **IWGIA - International Working Group for Indigenous Affairs**

This global non-profit organization was established in 1968 by anthropologists, as a resistance to the genocide of the different indigenous peoples of the Amazon areas. Its objective was to create a network of researchers and human rights activists to document the situation of these groups and demand an improvement in the rights of indigenous peoples. From the beginning, the Organization has cooperated with indigenous institutions and international organizations to promote the recognition and implementation of the rights of indigenous peoples, thereby protecting indigenous peoples through solid documentation, capacity building, and the promotion of both nationally, regionally, and internationally. Therefore, IWGIA's mission is to work so that in society the voices of indigenous peoples are heard, and their rights fulfilled. Thus, it tries to fulfil its mission by facilitating documentation, created by knowledgeable people on the subject, to help in the defense and training of indigenous organizations through global alliances. Similarly, IWGIA's vision is to ensure a world in which indigenous peoples can sustain and develop their societies through their practices, priorities, and visions. In addition, its global incidence is through the defense of the rights of these peoples at all levels to achieve closing the gap between international declarations and principles, and local legislation and public policies (IWGIA).

On the other hand, IWGIA has created strong alliances with other indigenous organizations as well as with important International Human Rights Organizations and an example of this is the United Nations. These alliances have allowed it to create and implement projects for indigenous groups by connecting local, regional, and international demands; it can be included that this global network that the Organization has built has inspired the exchange of good practices and experiences at a global level. IWGIA has also had important contributions in terms of documentation since 1986 the Organization has published annually *The Indigenous World*, which is an extended report on what happened in the year with indigenous peoples nationally and internationally (IWGIA); the diplomat like IB Petersen believes that this type of documentation has been efficient because it has not left anyone behind and is thus capable of complying with the 2030 Development Agenda (Petersen, 2019). Even more important, this Organization was granted in 1989 the status of the observer as an NGO in the UN, so IWIA took advantage of this condition to favor indigenous peoples and they can be part of the UN. Regarding its status as an observer, it has consultative status with ECOSOC and an observer status with the ILO - UNESCO. Also, support for the 2007 establishment and approval of the United Nations Declaration on the Rights of Indigenous Peoples, as well as the creation of the United Nations Permanent Forum on Indigenous Issues in 2002 (IWGIA).

In Latin America and especially Ecuador, the IWGIA Organization has been a powerful ally for indigenous peoples in terms of claims for their rights. For example, in Ecuador, together with INEC, it

has created statistics and censuses on the indigenous population (INEC, 2006), has also developed documents where it reveals the history of the indigenous population from their point of view, and from time to time it is part of reports that deal with issues of indigenous peoples of Ecuador (Betancur, 2011) (González, Burguete Cal y Mayor, & Ortiz, 2010). Finally, the Organization has supported indigenous peoples in their rights claims or when they have sued the Ecuadorian State for abuse of their rights, advising them on what they should carry out (Ortiz, 2019).

### **Amazon Frontlines**

The Non-Governmental Organization Amazon Frontlines was created in 2011 as an organization dedicated to the protection of water in the Amazonian territories of Ecuador, Colombia, and Peru. Thus, the beginning of the Organization occurs in the north of eastern Ecuador together with leaders of the Cofán, Secoya, Siona and Waorani indigenous communities with the project called Clear Water to ensure that the families of the peoples have safe access to water clean and guarantee their health, despite the oil contamination in the area. Clear Water installed rainwater harvesting systems for approximately 1,000 families spread over five million acres of rivers and forests. However, as time passed, the Organization realized that there were other problems associated with pollution and water, such as the resistance that indigenous communities carried out to survive and not disappear. In addition, they realized that several inhabitants had a great knowledge of forestry and ancestral medicine. Therefore, Amazon Frontlines saw the need to create in 2015 an alliance led by indigenous people, called Alianza Ceibo, which works to defend the culture, lands, and lives of the Cofán, Secoya, Siona and Waorani peoples (Amazon Frontlines, 2021).

The Organization is made up of an international group of anthropologists, farmers, environmental activists, human rights lawyers, health scientists, filmmakers, forestry specialists, and journalists; several of them live in the Amazon rainforest; and they originate from various parts of the world. Moreover, their mission is to support the struggle of indigenous nationalities to defend their basic and collective rights. Its values range from believing that indigenous struggles must be empowered for the survival of their inhabitants to publicly and internationally demonstrating the threats faced by the peoples; for that reason, the Organization is committed to building its work based on hard work, humility, mutual respect, and honest partnership. In addition, its major ally the Ceibos Alliance Organization is building a model of indigenous resistance and international solidarity setting viable alternatives for the defense of indigenous territory and cultural survival (Amazon Frontlines, 2021).

Regarding the protection of the human rights of indigenous peoples, the Amazon Frontlines Organization declares that the Ecuadorian indigenous nationalities lack legal resources and do not

have fair legal representation, therefore they have experienced environmental violations first-hand without being resolved., as illegal settlements on ancestral lands; and for them the negotiations, to solve the problems, with the government are superficial. Because of this, the Organization created a space where community leaders and youth come together and can create a collective understanding of the threats their communities face, and at the same time, it is a space for them to build legal rights defense. Together with them, the legal team of the Organization works who oversee creating the final documents for legal aid to the communities in their struggles (Amazon Frontlines, 2021). An example of what the Organization does was that in 2020 it made a formal claim to the Ecuadorian government and the IACHR to protect indigenous nationalities that were vulnerable to the contagion of COVID-19 and its greatest concern was that many of them already were infected and did not have the means to recover (Brown, 2020). On the other hand, the Organization represents the Siona people before the Inter-American Commission on Human Rights, which presented precautionary measures since they were being An example of what the Organization does was that in 2020 it made a formal claim to the Ecuadorian government and the IACHR to protect indigenous nationalities that were vulnerable to the contagion of COVID-19 and its greatest concern was that many of them already they were infected and did not have the means to recover (Brown, 2020). Finally, the Organization advised and was together with the Waorani delegation when they presented a protection action to the Pastaza Guarantee Court, given that it was considered that their rights to the prior, free, and informed election were violated by the oil exploitation project of the block 22. For the organization, this set a fundamental legal precedent in favor of these rights and the territories of indigenous peoples threatened by extractives (Resistencia Waorani - CONCONAWEP, 2019).

### **Survival International**

To begin with, Survival is an international non-governmental organization that was created in 1969 after a group of people were impressed by the genocide of Amazonian indigenous people who inhabited the Brazilian jungles, exposed by the British magazine Sunday Times (Survival) (Watson, 2009). The Organization is based in six different countries, Madrid - Milan - Paris - Berlin - San Francisco - London, the latter being where the main headquarters that governs the entire movement is located, and the other regional offices are administered with their governing bodies. In the early years, Survival had little income because its activities were purely voluntary, such as disseminating information about indigenous peoples, organizing, and supporting projects that took place in the communities, and establishing pressure in the international forums of the UN for indigenous peoples to be taken over in mind so that your rights are respected. The activities they carried out began to be notorious on the international scene, so thousands of participants around the world joined the fight as economic and social contributors; All of this made it possible for the Organization to collaborate so that indigenous and tribal peoples from different parts of the world would change their attitude and

fight for what belongs to them. Currently, Survival is financed mostly by contributions from middle class or lower-middle-class people, by other foundations, donations from some indigenous organizations, sales of projects that the Organization has developed, and the support of some public figures (Survival). Something important to note is that, for everything that Survival has done throughout its history, it has won several international awards, of which we can highlight the Right Livelihood Award. Currently, Survival is financed mostly by contributions from middle class or lower-middle-class people, by other foundations, donations from some indigenous organizations, sales of projects that the Organization has developed, and the support of some public figures (Survival). Something important to note is that, for everything that Survival has done throughout its history, it has won several international awards, of which we can highlight the Right Livelihood Award. Currently, Survival is financed mostly by contributions from middle class or lower-middle-class people, by other foundations, donations from some indigenous organizations, sales of projects that the Organization has developed, and the support of some public figures (Survival). Something important to note is that, for everything that Survival has done it has won several international awards, such as Right Livelihood Award and the best short at the Artivist Film Festival for his documentary "La Mina, Historia de una Montaña Sagrada" (Survival, 2010).

On the other hand, its work is to prevent the annihilation of indigenous and tribal peoples through a platform that makes known to the world the testimonies of the genocidal violence, slavery, and racism that these people face every day peoples. They also lobby the powerful to help protect the lands and lives of indigenous peoples who are creditors of rights as well as contemporary societies. Their vision is the same, that indigenous and tribal peoples are respected as modern societies and that their rights are protected. At the same time, their motto is: "We will not give up until indigenous peoples are respected as contemporary societies, are in control of their lives and lands, and are free to determine their future" (Survival). For this reason, the Organization is constantly producing events such as the EU Biodiversity Strategies for 2030, which took place in November 2020 and was an online event where certain indigenous leaders and activists discussed the fight against the theft of indigenous lands in the name of nature conservation (Survival, 2020). It also develops campaigns such as #DéjenlesVivir, which wants to avoid the annihilation of uncontacted indigenous peoples by companies and outsiders who destroy their lands. In this way, Survival becomes the main NGO that fights for the rights of indigenous peoples in isolation internationally (Survival, 2019). The Organization has always been vigilant about what happens to the Amazonian indigenous communities of Ecuador, publishing all the relevant news on its official website. Similarly, in each of their campaigns, they consider the country's communities, especially that of uncontacted peoples, since two of them can be found in Ecuador. In this way, Survival becomes the main NGO that fights for the rights of indigenous peoples in isolation internationally (Survival, 2019).

## **Cultural Survival**

The Non-Governmental Organization Cultural Survival was established in 1972 is led by a US registered non-profit organization and by indigenous people. Its headquarters are in Cambridge MA, and it has 26 employees spread over 10 countries, and most of its workers are women and indigenous. On the other hand, the Organization works to defend the rights of indigenous peoples such as self-determination, their culture, and political resistance; To achieve its goals, it has linked with different indigenous communities to promote their rights around the world. What it wants to achieve is that “in a future that respects and honors the inherent rights and dynamic cultures of Indigenous Peoples, deeply intertwined in lands, languages, spiritual traditions, and artistic expressions, rooted in self-determination and self-government”. Therefore, their efforts are focused on the principles of supporting, expanding efforts, and raising awareness of the self-determination of indigenous peoples. It should be noted that the work carried out by the Organization is based on the United Nations Declaration on the Rights of Indigenous Peoples and has associations not only with indigenous communities but also with internationally recognized human rights defenders it is termed a trusted network. In addition, they use these alliances and global leadership to their advantage to promote themselves, intending to amplify their platforms and raise the voices of indigenous communities while working to demand their fundamental and collective rights.

Survival is about empowering indigenous peoples to organize their communities and participate in international processes, national policies, and human rights organizations. A fact about the organization is that in 2005 it was part of the consultative status in ECOSOC proposing viable solutions to the problems of indigenous peoples through respect for the traditional knowledge of the communities (Cultural Survival, 2020).

Likewise, the Organization has created different programs and projects that are the means to fulfil its objectives of protecting the rights of indigenous peoples. One of its star programs that were created in 2017 is the so-called Guardians of the Earth Fund, this is a Cultural Survival fund directed by indigenous people and was developed to support the defense and development projects of indigenous peoples. Since its creation, the Fund has sponsored 119 projects in 31 different countries through grants and technical assistance, with a total of \$ 488 to \$ 475.00. Cultural Survival bases its project on the United Nations Declaration on the Rights of Indigenous Peoples, using an approach based on grant-making strategies to equitably assist indigenous solutions. The projects they support can be of different themes, for example: Indigenous women and youth leadership; political, economic and food sovereignty; free, prior and informed consent; self- governance; land and water rights; land titling, tenure and administration; agroecology; environmental and biodiversity protection; climate change; carbon sequestration; intergenerational transmission of traditional knowledge; revitalization

of Indigenous language, culture and knowledge; movement building; and Indigenous participation and representation in local, regional, national and international spaces (Guardians of the Earth Fund, 2017).

The indigenous communities of Ecuador are also part of some projects of the Survival Cultural Organization. The Awa people, through funding from the Guardians of the Earth Fund, founded Radio Ampara Su, which is a community radio station that transmits its programs in the Awapit language. Since its inception, the radio has the goal of promoting inclusion and social cohesion, peaceful coexistence, and a culture of peace, eradicating all forms of discrimination (Nastacuaz Pascal, 2019). Another interesting project that took place in Ecuador through the help of Cultural Survival was in November 2019 by the Higher Institution “Quilloac” Bilingual Intercultural. This entity developed an application so that children could learn the Kichwa Kañari language. Its main objective is to change the reality that one in three indigenous children who finish school speaks the language of their parents, and this happens because the education system in Ecuador does not meet the cultural or linguistic needs of indigenous peoples (Cultural Survival, 2019). Finally, in 2020 Ecuador is going through a COVID-19 pandemic that threatens indigenous peoples. For this reason, the Organization has allocated emergency funds to make direct grants to its indigenous partners so that they can respond to the crisis using their solutions. In addition, they have produced, translated and distributed public service announcements in more than 130 indigenous languages to prevent COVID. This is broadcast by different indigenous radio stations (Cultural Survival, 2020).

### **Amazon Watch**

Amazon Watch is a non-profit, non-governmental organization that was established in 1996, based in San Francisco USA (The Amazon Post, 2015), and its objective is to protect the rainforest and promote the rights of indigenous peoples whom they settle on the shores of the Amazon. Their main arguments are that there are approximately 400 indigenous peoples in the river basins that depend directly on the Amazon for their physical and cultural survival; and that in the Amazon there is a high rate of deforestation that, if it continues at the same rate, could cause 50% of the tropical forest to be lost between 2020 and 2021. The Organization is made up of ecological and human rights activists and is associated with indigenous and environmental organizations. Its mission is to maintain its associations to create campaigns for human rights, corporate responsibility, and the preservation of the ecological systems of the Amazon. His vision is that the world stage can honor and value cultural and biological diversity and that there is self-determination of indigenous peoples because it is important for any conservation strategy for the Amazon. They also mention that they will fight exhausting all instances for a world where governments, companies and civil society respect the collective rights of indigenous peoples to free, prior, and informed consent on any activity that affects

their territories and resources. Likewise, they are committed to supporting their indigenous partners in their work to protect life and culture.

Amazon Watch is an organization that has been involved in different controversial cases about extractives and abuse of the rights of Amazonian indigenous peoples, given that in its news column and blogs, and its reports, it always presents investigations that denounce governments, States, transnational corporations and other power entities (Amazon Watch). For example, in 2020 the Organization presented a report in which it argued that since 2009 European banking institutions finance the trade of oil from the Ecuadorian Amazon to the United States, for Amazon Watch there are two serious problems with this act and is, Several of the banks involved in the case have signed international agreements in which they undertake not to finance activities that endanger the environment and the lives of human beings; The second is that the areas that can be exploited through financing have one of the most diverse ecosystems in the world, as well as being home to approximately 20 indigenous nationalities and peoples in voluntary isolation. His complaint has been endorsed by leaders of the indigenous communities associated with the organization and what they hope is that the International Organizations together with the States act on the matter (Plan, 2020).

Finally, it is important to mention that Amazon Watch was a key factor in Ecuador vs. Chevron- Texaco case, because it was the organization that supported the indigenous communities in the area from the beginning to claim for the damage before their government (The Amazon Post, 2015) and then to file a lawsuit in the Southern District Court of New York, under the figure of a class action, against Texaco (Ministry of Foreign Affairs and Human Mobility, 2015). It also mounted an advertising campaign in the media and internet in opposition to Chevron, and pressured entities such as the SEC (The U.S. Securities and Exchange Commission) to open an investigation against the oil company (The Amazon Post, 2015). Even though the lawsuit has faced obstacles and that the oil company has counter- sued Ecuador, the Organization, together with indigenous community leaders, continues to fight for the rights of nature and indigenous peoples.

In conclusion, the problems that have arisen throughout history on issues of rights of indigenous peoples have led the different International Organizations to act on the matter by creating bodies in charge exclusively for the protection of these peoples. An example, the UN Through the United Nations High Commissioner for Human Rights created from 1980 to 2007 three institutions (Permanent Forum for Indigenous Issues, United Nations Voluntary Fund for Indigenous Peoples and Expert Mechanisms on Human Rights of Indigenous Peoples) which work together with other Organizations or Bodies to propose solutions to problems and be financial support for the struggle of indigenous peoples.

Also, it is possible to find instruments that do not necessarily focus on the rights of indigenous



peoples but that within their regulations in one way or another protect important rights for them or is helpful for their self-development; this is the case of WIPO and FILAC. Finally, the NGOs for the protection of indigenous peoples are the closest allies that these peoples have. As could be seen, the members of the NGOs are always working in the communities and that is why they can get closer to the settlers and indigenous leaders show them trust and work together for a common goal. For this reason, every time it raises a problem to the first that indigenous communities turn to, it is NGOs, although they do not have regulations and are not binding, because they know that they will help them go further in the sense that they can advise them to direct their cases to binding International Organizations or the States. Lastly, NGOs are not only allies when it comes to protecting peoples in serious matters, but they are also creators of programs and projects for indigenous communities to carry out their goals and strengthen their development in their way; and are part of meetings of the NGOs are not only allies when it comes to protecting peoples on serious issues, but they are also creators of programs and projects for indigenous communities to carry out their goals and strengthen their development in their way and are part of the Organizations demand the creation of strong and complete legislation that in practice can protect indigenous peoples.

### **2.3 What other International Organizations say about communities in isolation**

The world scenario encompasses some problematic circumstances or important issues to be addressed, which a single institution could not take care of alone. Also, the regional, linguistic, social, cultural, religious, and historical differences between States do not allow them to work with each other, without there being some type of dispute. It is for these reasons that there is a diversity of International Organizations that assume the responsibility of dealing with specific issues or that are developed by continents, regions, or zones. In addition, States increasingly seek to have cooperation to excel or improve internally (Pérez Bernardo, 2015, p. 33), because they realized that their claims and needs could not develop autonomously and the problems that were presented to them could not be solved by a single member of international society, so joint action was needed to achieve common goals (Pérez Bernárdez, 2015, p. 36). At present, it is presumed that there are approximately 350 International Organizations (Velasco, 2015) that have in common is that they are subjects of International Law and can deploy actions aimed at producing legal effects (Díaz-Cediel, 2016).

However, the issue of indigenous peoples in voluntary isolation is an issue that concerns human rights IOs, or bodies specialized in the rights of indigenous peoples. However, most IOs in one way or another get involved or try to work with indigenous peoples out of ethics, respect for human rights and compliance with public international law. Thus, the following will reveal what the different International Organizations say about the peoples in voluntary isolation.

## **Organization of American States (OAS)**

To begin with, it is said that the OAS is the oldest regional organization in the world since its origin remote from the First International American Conference held between the end of 1889 and the beginning of 1890, in which the idea of an inter-American system was given. Now, the OAS was established in 1948 by signing the OAS Charter that was in effect in 1951 (OEA). The organism was constituted to achieve in its 35 Member States that they have “an order of peace and justice, that promote their solidarity that strengthen their collaboration and defend its sovereignty, its territorial integrity and its independence” (OAS Charter, art.1, 1948). Today, the OAS is the primary political, legal, and social governmental forum in the Americas; and its purposes are based on four pillars that are democracy, human rights, security, and development, which are intertwined with each other through an organization that includes dialogue, politics, inclusion, cooperation, and legal instruments to facilitate to the organization the necessary tools to carry out its work (OAS). It is important to note that, in 1959, the OAS founded a main and autonomous body named the Inter-American Commission on Human Rights whose objective is the promotion and protection of human rights in America (OEA). In the same way, the Organization of American States is an entity that has developed numerous tools for the protection of the rights of peoples in voluntary isolation. To begin with, the organization presented in 2013 a key report entitled *Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas*, which is a complete investigation about the peoples, the definition of peoples in isolation, the general considerations on the rights of these peoples, the sources of law and international and national normative frameworks for the protection of their rights, the main threats they face, and ends with a series of recommendations made by the Inter-American Commission on Human Rights to States with the presence of peoples in voluntary isolation (OAS, 2013). The Inter-American Commission on Human Rights declared, based on this report, that the historical structural patterns are an obstacle to the full enjoyment of the rights of these peoples, which is why the difficult task of the States to protect them is consensual; For this reason, he believes that immediate action must be taken to protect indigenous people in isolation or initial contact, and the report includes recommendations based on the recognition of their existence and their right to self-determination, which implies their decision to remain in isolation, protection of their lands, territories and natural resources. The Commission also states that it will always be willing to collaborate with the States, indigenous leaders, indigenous organizations, and other stakeholders so that they effectively implement the recommendations (IACHR, 2014). Second, according to the book *Indigenous Peoples in Voluntary Isolation and Initial Contact*, prepared by IWGIA - IPES, the precautionary measures that the IACHR has determined for the protection of the rights of peoples in isolation in Ecuador and Peru must be considered; in 2006 these precautionary measures were ruled by the Tagaeri – Taromenane isolated peoples (IWGIA - IPES, 2012, p. 278). The jurisprudence that the Inter-American Commission on Human Rights has is quite important given that its judgments are related to

the application of the American Convention on Human Rights, the judgments must also be applied in all the States parties to the OAS that have ratified the Convention and that the precautionary measures that the Inter-American Commission on Human Rights has determined for the protection of the rights of peoples in isolation in Ecuador and Peru must be taken into account; in 2006 these precautionary measures were ruled by the Tagaeri - Taromenane isolated peoples (IWGIA - IPES, 2012, p. 278). Even more important, the jurisprudence of the Court goes beyond whether the States ratified the Convention because the Court bases its judgments on the United Nations Declaration on Indigenous Peoples and ILO Convention 169 (IWGIA - IPES, 2012, pp. 266- 267). Third, even though the several States of America have adopted legislation and policies to protect peoples in isolation, the situation they are going through is worrying, since legislation exists but it is not complied with or is deficient and has been reflected in incidents between peoples in isolation, indigenous communities, and workers of extractive companies. For these reasons, the Inter-American Commission on Human Rights began monitoring and follow-up activities on what happens to the peoples through its different instruments for the protection and promotion of human rights, such as precautionary measures, requests for information from States, and the holding of thematic hearings (IACHR, 2013). Finally, on September 30, 2020, the Inter-American Commission on Human Rights presented before the Inter-American Court the case of the Tagaeri - Taromenane peoples in voluntary isolation, making this the first case referring to this class of ancestral peoples. The case presents the international responsibility of the Ecuadorian State for a series of violations of the rights of the Tagaeri - Taromenane and their members for projects that damage their territories, natural resources, and way of life; The case report also reveals the State obligations that Ecuador has regarding the rights of these peoples and the level of indigenous protection that the State has against the interests of third parties for the use and exploitation of the territories. The conclusion reported by the Inter-American Commission on Human Rights was: “the State did not offer any judicial recourse to raise territorial claims in favor of indigenous peoples in voluntary isolation, considering their particular circumstances and that the remedies were not effective. There are also indications of a lack of due diligence in criminal investigations, as well as the unjustified waiver of the punitive power of the State, which violated the rights to judicial guarantees and judicial protection of the Tagaeri - Taromenane peoples” (IACHR, 2020). Finally, these are only some of the instruments that the OAS applies for the protection of the rights of peoples in voluntary isolation and initial contact, as it has also been involved in more cases, projects, reports, investigations, conferences, and treaties, both regional and international.

### **European Union (EU)**

The European Union is called a political community of law that was established, as it is known today, in 2009 with the entry into force of the Lisbon Treaty and thus contracted the legal personality

of a subject of international law (European Union, 2011). It is currently made up of 27 European States and its objective is to establish continental integration through common policies that cover different economic and political spheres. To comply with their goals, the European Member States attributed certain competencies to the European Union, which is why the Organization has shared sovereignty with the countries. The EU is based on an internal system of representative democracy and has seven bodies that together oversee good governance for European countries (European Union, 2020).

Regarding indigenous peoples in voluntary isolation, the European Union does not exactly address the issue in-depth, however, in 2018 it presented a report on the violation of the rights of indigenous peoples in the world, including land grabbing through its Commission on Foreign Relations. In the report, the European Parliament states that there are indigenous peoples who have decided to reject contact with the outside world and that for that reason they cannot defend their rights, for that reason they are considered the most vulnerable peoples in the world and especially because of the threat of oil, deforestation, drug trafficking and the infrastructures associated with these extractive activities. Similarly, Parliament makes recommendations in the report such as, urges the EU Member States and their international partners to adopt the necessary measures for the full recognition, protection, and promotion of the rights of indigenous peoples (EU Foreign Relations Commission, 2018). On the other hand, in 2019 the European Union created a project together with the Ecuadorian Fund Populorum Progressio and FAL (facilitation of trade and transport in Latin America and the Caribbean ECLAC) that tries to contribute to respect the human rights of the Indigenous Peoples in Voluntary Isolation (PIAV), that there is a culture of peace among the neighboring and border populations of the PIAV and that there is a general awareness in Ecuadorian society about these peoples. The peoples that have been benefiting from this project are the Waorani, Kichwas and Shuar communities, and with the help of these peoples, it is hoped to sensitize the communities so that there is respect and protection for peoples in isolation (Delegation of the European Union in Senegal, 2019). Finally, although the EU as an organization does not have relevant actions on people in voluntary isolation, it does not detract from those that its member states carry out alone or together with other international organizations.

### **Andean Community**

On May 26, 1969, the constitutive treaty called the Cartagena Agreement was signed, which determined the objectives of Andean integration, its institutional system, and established mechanisms and policies that community bodies must develop. In this way, the Andean process of integration of the Andean Pact is developed, which since 1996 became the Andean Community. This is an international organization made up of different bodies and institutions, whose objective is "to achieve an integral, balanced and autonomous development, through Andean integration, with a projection

towards a South American and Latin American integration" (Andean Community). The Organization is made up of 4 member countries Bolivia, Colombia, Ecuador, and Peru, and 5 associated countries and 2 observers' countries: being the headquarters of the General Secretary in Lima - Peru. An interesting fact about the Andean Community is that, since 2003, there has been a free movement of people from the member countries that the citizens of the CAN States can enter the four-member countries (Andean Community) without a passport and only with their identity document.

On the other hand, in 2007 the Andean Community formed the Consultative Council of Indigenous Peoples, a body that wants indigenous peoples to interfere in matters of sub regional integration within the framework of the Andean Integration System. The Council is made up of an indigenous delegate from each of the member countries, and by regional organizations that have the power of observers. Its competence is to issue a non-binding opinion to the Andean Council of Foreign Ministers and the General Secretary of the Andean Community, with the right to speak at meetings (Andean Community, 2017). However, the Andean Community does not expressly declare about the peoples in voluntary isolation, but in the Declaration of Machu Picchu on the Democracy of the Rights of Indigenous Peoples and the Fight against Poverty, that they established in 2001, Article 7 declares that: "the signatory supports the efforts to protect and promote fundamental rights and freedoms as well as not to be displaced, as peoples, from their historical cultural heritage; to their systems, knowledge and practices of traditional medicine, including the right to the protection of their ritual and sacred places "(Declaration of Machu Picchu on the Democracy of the Rights of Indigenous Peoples and the Fight against Poverty, 2018). In the same way, in 2002 it created the Andean Charter for the Promotion and Protection of Human Rights, which in articles 36 – 37 – 38 state the protection of the human and collective rights of indigenous peoples, and the most important right for peoples in voluntary isolation would be to own and possess the lands or territories that they traditionally occupy; not to be displaced from them and to return if they are (Andean Charter for the Promotion and Protection of Human Rights, 2018).

### **Pacific alliance**

The Pacific Alliance is a regional integration instrument constituted by Chile, Colombia, Mexico, and Peru that was established in 2011 but legally constituted in 2012 through the Framework Agreement. The primary objective of the Pacific Alliance is to create attractive markets in member countries to have greater competitiveness at the international level as a group (Pacific Alliance, 2015). It is important to add that the set of countries that make up the organization in 2012 contributed 40% of GDP and approximately 55% of foreign trade in Latin America (Roldão, 2012) and is considered the eighth world economy (Coba, 2020). On the other hand, Ecuador since 2018 has sought to be a

full member of the bloc, for this, the country has had to create trade agreements with each of the member states of the regional instrument. Until now, Ecuador only lacks a treaty with Mexico. However, in December 2020 signed the terms of reference for a future associate member incorporation negotiation (Coba, 2020).

However, the body has not directly ruled on what each member country should do concerning indigenous peoples in terms of their development projects. Although, on mining issues addressed by the Pacific Alliance, it supports this activity and encourages “the exchange of experiences in matters such as community participation, indigenous development, job security, innovation, water resources and energy, in addition to generating a registry of production indicators and available resources in this economic zone, to develop public policies for the sector” (Pacific Alliance, 2015, pp. 9-10). In this way, it attempts to integrate indigenous peoples into projects without abusing them during mining operations. In any case, the agency's pronouncements on indigenous peoples are minimal and nonexistent on indigenous peoples in isolation, even though there is a considerable indigenous population in the member countries.

## **World Bank**

The World Bank was established in 1944 and began as a single financing entity, but at present it is made up of a group of five interrelated development institutions, the same ones that are committed to reducing poverty, increasing poverty, and increasing poverty prosperity and promote the sustainable development of member countries. In addition, it is made up of 189 member countries and even though its headquarters are in the city of Washington DC (United States), it has 130 offices in various parts of the world. Also, it is an institution that has at its disposal various professionals such as economists, experts in public policies, sector specialists and social scientists, those who collaborate with the organization to decide to grant the different financial products or technical assistance to the State that requires it. Likewise, the World Bank is an instrument that assists countries to face their challenges through the exchange of knowledge and the application of innovative solutions. It is important to emphasize that the main objective of the organization is to fight poverty through a process of sustainable and inclusive globalization. Finally, an interesting fact is that the World Bank since its creation has financed 12,000 development projects through traditional loans, interest-free credit, and grants (World Bank).

As for indigenous peoples, the World Bank is committed to the protection of their rights, which is why when it provides financing to governments to carry out their projects; it seeks to ensure that the people living in the areas are protected from possible unfavorable impacts (World Bank). For example, every year the Bank attends international meetings with indigenous organizations and with

the United Nations Permanent Forum to indigenous Issues because the agency is developing an Inclusive Forum for Indigenous Peoples that will be the platform in charge of identifying and disseminating good practices and understanding of initiatives to member countries, to promote the integration of indigenous peoples' problems in development efforts (World Bank, 2020). In this sense, in 2018 the World Bank adopted a new set of environmental and social policies called MAS that is applied to new financing operations for projects. Likewise, it has operational policies for the protection of indigenous peoples, the same ones that are indispensable for the main objective of the World Bank (World Bank). Namely, when a State wishes to finance a project in which indigenous peoples, their rights and territories are involved, the agency requires the borrower to participate in a process of prior, free, and informed consultation; Once the results of the consultation are obtained, the Bank will decide whether to grant the financing. This is done by the agency to avoid potentially adverse effects on indigenous communities or to minimize, mitigate and compensate for the abuses that have already occurred against them. The projects financed by the World Bank are designed to guarantee that indigenous peoples obtain social and economic benefits and that they are consistent with their needs, beliefs, and culture (World Bank, 2013). Recalling the MAS policy set, these provide guidelines so that projects financed by the World Bank do not affect territories, natural resources, or cultural heritage and thus there is no voluntary resettlement of indigenous peoples; it also includes guidelines to protect peoples in voluntary isolation (World Bank, 2020). Finally, the World Bank has been part of several investigations and projects for the protection of indigenous peoples in voluntary isolation, since it considers them to be a vulnerable and poor group. An example of this, in 2014 it financed the creation of an Institutional Guide for the protection of indigenous peoples in voluntary isolation or initial contact carried out by several Colombian institutions for the protection of Amazonian forests and the Ministry of the Environment (Rueda, 2014).

### **Inter-American Development Bank (IDB)**

This is an international financial identity established in 1959 with headquarters in Washington DC - the United States, to make progress in the quality of life both in Latin America and the Caribbean through the improvement of health, education, and infrastructure through the financial and technical assistance of the agency. In addition, another of its purposes is for member countries to achieve development in an environmentally sustainable way. Likewise, social inclusion, equality, productivity, innovation, and regional economic integration are a priority for the IDB because in this way it addresses controversial issues such as gender equality and diversity, climate change and environmental sustainability, and institutional capacity and the rule of law (IDB). The IDB has 48 member states, the first 22 they, are non-borrowing members who are the ones who do not receive financial support but do benefit from the agency's procurement rules; and the 26 remaining States that can receive financing, within this group can be found in Ecuador. The financing that each member

acquires is through loans, donations, guarantees, and investments obtained from member countries, financial markets, trust funds and co-financing operations (IDB, 2008).

On the other hand, in 2011, through IDB resources, the Strategic Framework for the protection of Indigenous Peoples in Voluntary Isolation and Initial Contact was approved by the Amazon Cooperation Treaty Organization, which is made up of Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela. The reason for the development of this Framework was that this population is in a situation of risk despite the national and international regulations that exist to protect their rights and the excessive growth of the exploitation of natural resources that puts lives at risk and territory of this population. The purpose of this project, which has evolved, and its last phase occurred in 2018, was to contribute to the protection of the rights of peoples in voluntary isolation through the definition of effective policies and consensual actions between governments, peoples, indigenous organizations, and NGOs familiar with the subject (OTCA, 2018). On the other hand, if in the development of an extraction project that has been financed by the IDB, the State or private entity creates concern regarding the rights of indigenous communities or peoples in isolation, the agency will impose conditions that entities must comply with to continue with their projects (Huertas, 2010). Finally, the IDB throughout the time of the COVID-19 pandemic has been aware of what happens to the peoples in voluntary isolation. His argument is clear, this is a minority population that does not have immunity to foreign diseases that can currently be controlled, and they are hard-to-find peoples, so there would be no reach with the health system of their country. For these reasons, the IDB has developed technical instruments with a practical and concise approach that are based on a thorough review and systematization of declarations, protocols, guides, and other tools carried out by international organizations, national governments, indigenous organizations, and NGOs to face the health emergency (Cotacachi & Grigera, 2020).

In any case, the protection of the rights to their lands, territories, and natural resources of indigenous peoples and even more importantly the rights of indigenous peoples in voluntary isolation are important to strengthen their survival and way of life. For this reason, the United Nations especially recommends regional institutions, such as ACTO, AN, OAS, MERCOSUR, to address issues that have a focus on the development, protection, and propagation of the rights of people in voluntary isolation, since it is the region that embraces most of these communities (OHCHR, 2009), and these bodies do not take this reasoning into account. However, the international instruments help in a certain way the shortcomings of regional organizations and lay the foundations for them to develop the issue in question.



## **2.4 Analysis of judgments of the Inter-American Court of Human Rights related to the exploitation of non-renewable natural resources and the violation of the rights of indigenous peoples and nationalities**

The territories where most of the indigenous community's settle is rich in natural, non-renewable, and non-renewable resources and, competition for control of these resources is one of the main causes of conflicts (Fernández, 2006), because of justice social and the rights of indigenous people who depend directly on nature are affected (San Lucas Ceballos, 2015). On the other hand, it is assumed that in countries where there are indigenous populations, the States have legislation that protects this group as well as nature that has an intimate relationship with the peoples. However, the desire of these States to sustain the economy of their countries and satisfy in some cases the energy needs have made governments promote the extraction of non-renewable natural resources, leaving aside the protection of indigenous people (San Lucas Ceballos, 2015). Despite this, the States are not aware that there is an international scenario in which they participate, either because they are a member of an organization or because they have ratified an agreement. Consequently, countries that do not comply with their legislation or with what is agreed in a pact, in this case regarding the rights of indigenous peoples, will be observed by international organizations that at one point will intervene to protect and enforce the rights of this population.

### **2.4.1 Case of the Kichwa indigenous people of Sarayaku vs. Ecuador**

The case of the Sarayaku people is of the utmost importance because it was one of the first of its kind in Ecuador and made several relevant contributions to indigenous peoples on issues of international human rights law (Melo, La línea de Fuego, 2013). In addition, the great effort of the community must be recognized because it left its comfort zone to be active and protagonist always involved in the process (Melo, Importance of the Sarayaku case judgment for indigenous rights in the Americas, 2012). In 1996 Ecuador signed a contract with PETROECUADOR – the General Fuel Company, a subsidiary of Chevron in Argentina (CFC) and the Ecuadorian oil company San Jorge, to carry out hydrocarbon exploration and exploitation of crude oil. Between the years 2002 – 2003, the CFC began explorations in the company of the State Public Force, who arrived in Sarayaku lands without warning and against the will of the people, to do a seismic exploration that consisted in the placement of a ton and a half of explosives inside the jungle; the explosives destroyed caves, water sources and underground rivers that were for the community's consumption, as well as ancestral places for the people. The entry of this group of people, which by the way was without prior consultation with the Sarayakus, and the placement of the explosives caused the climate to stir, so the consequences were clashes between the indigenous people, and the agents of CFC - Public force

(ESCR-Net, 2012). After these incidents, a complaint was made by the Kiwcha Sarayaku people together with the Center for Justice and International Law (CEJIL) and the Center for Economic and Social Rights (CDES), before the Inter-American Commission on Human Rights in December 2003 (Navas Iturralde, *La Denuncia* before the Inter-American Court of Human Rights, 2015). Despite this, between 2003 and 2004 the Sarayaku community denounced a series of alleged threats and harassment towards the leaders, members, and lawyers of the people (IACHR, 2012). The complaint of the Sarayakus against the Ecuadorian State was based on the argument that the government had approved an oil concession and later agreed to allow an Argentine company to carry out seismic explorations on Sarayaku lands, without first having made a prior consultation with the town. Furthermore, these actions were considered as a violation of the rights to prior, free and informed consultation, to indigenous communal property and cultural identity; it should be noted, that already in 2003 the Inter-American Commission, the Association of the Kiwcha People of Sarayaku, the CDES, and the CEJIL made an initial request for precautionary measures in favor of the Sarayaku people to the Inter-American Court, but it was not until April 26, 2010, that The Inter-American Commission presented a complaint to the Court against the Ecuadorian State, based on Articles 51 and 61 of the Inter-American Convention. The interpellation was for the concession that the Ecuadorian State granted to a private oil company, in 1990, to carry out oil exploration and exploitation activities in the territory of the Sarayaku people, this occurred without prior consultation or approval of the community. During the exploration phase, the oil company installed explosives in various points of the Sarayaku territory, which was of high risk for the population because it limited their right to free movement by stepping on these devices and having them explode. Likewise, the lawsuit alludes to the lack of judicial protection and the observance of judicial guarantees. Based on the aforementioned, the Inter-American Court requested the Ecuadorian State to declare itself responsible for the violation of the following rights against the Sarayaku people: the right to private property following Articles 13 – 23 and 1.1 of the HDI Convention; the rights to life, judicial guarantees and judicial protection concerning Articles 4 – 8 – 25 and 1.1 of the American Convention; the rights of movement and residence under articles 22 – 1.1 of the Convention; the right to personal integrity recognized in Article 5 of the Convention; and finally, the Commission demanded that the Court order the Ecuadorian State measures of reparation, and the payment of costs and expenses. This application was received by the Secretariat of the Inter-American Court in May 2010 and was notified to the parties on July 9, 2010 (Case of the Kichwa Indigenous People of Sarayaku v. Ecuador, 2012).

However, it was not until 2012 that the Court issued its ruling on the case and defined that the Ecuadorian State violated the aforementioned rights and declared it responsible for putting at risk the rights to life and personal integrity and for violating the rights to judicial guarantees and judicial protection to the detriment of the Sarayaku people; the ruling came after a historic visit by court-appointed members to Sarayakus Amazonian lands (ESCR-Net, 2012). At the end of the hearing, the

Court determined that Ecuador neutralize, deactivate, and remove the explosives from the forest; If on the next occasion you intend to carry out a project to extract natural resources in Sarayaku territory, you must previously, adequately, effectively and in full accordance with international standards consult the people; the State must implement a budget for compulsory courses or programs aimed at military, police, and judicial officials on national and international human rights standards for indigenous peoples and nationalities. The State has to carry out a public act in which it recognizes its international responsibility for the events that have arisen in the case; the State must pay compensation for property damage of \$ 90.000 and intangible for \$ 1. 250,000 to the Sarayaku people; the State must submit a report to the Court, one year after notification of the judgment, on the measures adopted to comply with the judgment; and the Court will be responsible for supervising compliance with the judgment and the duties of the State following the American Convention (IACHR, 2012). Nevertheless, According to the magazine *Primicias* and the Inter-American Court, Ecuador registers 10 pending judgments in part and in full; One of these judgments is the case of the *Kiwcha Sarayaku Indigenous People vs. Ecuador*, which has three pending reparations for compliance, which are: the neutralization, deactivation and evacuation of explosives, the holding of prior consultations for the extraction of Sarayaku land resources, and the training for police and military on the rights of indigenous peoples (González M., 2020).

The case shows that the State did not comply with Article 21 of the American Convention, despite having ratified the Convention in 1977, concerning the rights of consultation, indigenous communal property, and cultural identity to the detriment of the Sarayaku indigenous people. Similarly, there is a violation of the rights of articles 1 – 4 (right to life) – 5 (right to personal integration) – 7 (right to personal freedom) – 8 (judicial guarantees) – 13 (freedom of thought and expression) – 22 (right of movement and residence) – 23 (political rights) – 25 (judicial protection) – 26 (progressive development). In addition, it does not comply with what is agreed in other international treaties and instruments to which the State is a party, and they are, Development (UN), and the Universal Declaration on Cultural Diversity (UNESCO) (IACHR, 2012). Now, the Ecuadorian State at the time of the trial alleged that it could not have breached ILO 169 Convention because it had not ratified the instrument and that the 1979 Constitution of Ecuador did not contain regulations in which it indicated that prior consultation with the indigenous people to carry out a project (IACHR, 2012, p. 36). However, it was not relevant that the contract was signed in 1996 given that the CGC company began its activities on Sarayaku lands in 2002 when it planted the explosives, in the same way, Sarayakus witnesses declared that in 2003 the military who were established in Jatun Molino did not they allowed them to freely travel along the Bobonaza River (IACHR, 2012, p. 37). At the same time, it was alleged that the CGC company and the Ecuadorian State had relied on obtaining signatures from the Sarayaku people, which was fraudulent, for this reason, the Ombudsman's Office of the Province of Pastaza verified that it had been a violation of constitutional right art. 84 – 5 and

also art. 15 – 2 of ILO Convention No. 169, and Principle 10 of the Rio Declaration on Environment and Development (IACTHR, 2012, p. 60). So, all the acts take place in years in which the new Constitution of 1998 was already in force and Ecuador had already ratified ILO Convention No. 169 in the same year. Similarly, even though the events occurred before Ecuador ratified the United Nations Declaration on the Rights of Indigenous Peoples, in the case document, the IACHR Court uses the Declaration's norms several times, recalling that it is one of the main instruments for the protection of the rights of indigenous peoples and demonstrating that several of its articles are useful for the judgment (IACTHR, 2012).

On the other hand, the case of the Kichwa indigenous people of Sarayaku vs. Ecuador is of importance not only for the rights of indigenous people in Ecuador but also in America. Regarding the legal field, the right to free, prior, and informed consultation with indigenous peoples; In several Latin American countries there were environmental conflicts linked to indigenous peoples that were not considered or with the proper measures, the contribution of the judgment regarding the right to consultation is binding for the Ecuadorian State and a mandatory precedent in the member countries of the OAS. In the same way, it is a strong precedent so that in the future there will be greater protection of the rights of indigenous peoples by other States and an example of dignity for the different indigenous communities. In this way, The OAS has recognized the importance of consultation and community ownership of indigenous peoples and therefore urges that the courts of the member countries respect these regulations and even declares that the courts of the countries that have not ratified the Convention 169 ILO, should carry out prior consultations with indigenous peoples on decisions that affect their rights. This is because the Inter-American Court considers that the right to consultation is not exclusively a national or international legal source, a general principle of law. The case develops the right to cultural identity as a fundamental right of indigenous communities, for which the States are obliged to guarantee these peoples the proper consultation on projects that could affect their cultural or social life. Finally, what the Sarayaku people did was a demonstration of unity, strength, and courage. The community had to understand what was happening in their territory, which was not part of their way of seeing life, to be able to defend themselves in the best way, for which they were aware that they needed the help of an entity with greater power and that is. At that time, together with the support of national lawyers and based on international Human Rights instruments, they decided to file their complaint in the Inter-American Human Rights System, turning their case into a topic of international discussion (Melo, Importance of the Sarayaku case judgment for human rights indigenous peoples in the Americas, 2012).

Finally, the case was in the national and international public eye and therefore there were various points of view on the part of academics or interested parties on the subject. For example, for the expert Alberto Acosta Espinoza, before the Sarayaku vs. Ecuador case, conflicts regarding oil

interests in indigenous territories were resolved by imposing the will of the states, without him carrying out the expropriation of expropriation proceedings consultation, which caused some indigenous communities to be displaced and even caused the disappearance of peoples (Acosta Espinoza, 2011). Likewise, the Sarayaku people's lawyer, Mario Melo, argues that the great international attention given to the case is a strategy well used by the Sarayaku community; as it was pronounced previously, the people left their comfort zone to face their enemies; this can be replicated by other indigenous peoples who face the same problems. Furthermore, Melo states that: "the judgment develops the criteria regarding the right to prior and informed consultation that can be used in other cases of violations of indigenous rights in Latin America" (Melo, Case of the Kichwa Indigenous People of Sarayaku v. Ecuador, 2012).

In conclusion, it is evident that the case marked a milestone in terms of the rights and protection of indigenous peoples, but on the part of international instruments. However, it also demonstrated a deficiency in the Inter-American Human Rights System since the lawsuit was filed in 2003, after a year the report was admitted, but the date of a hearing for the case was only given in 2012. Within the case document, between 2003 and 2011 there were abuses of Sarayaku residents by military officials and CGC workers. In addition, Melo states that: "the judgment develops criteria regarding the right to prior and informed consultation that can be used in other cases of violations of indigenous rights in Latin America" (Melo, Case of the Kichwa Indigenous People of Sarayaku v. Ecuador, 2012).

#### **2.4.2 Case of the Saramaka people vs Suriname**

The following case is special given that the Maroon Saramaka people are not specifically an indigenous community but are descendants of African slaves who arrived in Suriname during colonization (IACHR, 2020). The culture of this people is like that of the tribal peoples since they have a strong spiritual relationship with the territory they traditionally inhabit, the land for them is not only a source of subsistence but is the main source for their life to persist and their Cultural identity does not disappear, in addition, the resources that they have created in the lands they have occupied are part of their social, ancestral and spiritual essence. Likewise, their religious sacred sites are found in those lands as well as their historical sacred sites of struggles for their liberation from slavery (IACHR, 2019). However, The State of Suriname is the owner of the territories and other existing resources in the spaces that the people occupy, even though the Saramaka obtained tacit approval from the State to have a certain degree of autonomy and thus be able to govern their lands, territories, and resources. However, Suriname granted concessions to third parties to carry out logging and mining activities in Saramaka territory, which caused damage to the environment. This people had no legal status in Suriname; therefore, they were not eligible to receive communal titles or on behalf of a

traditional collective entity for the lands they inhabit. However, the Saramaka people requested that they be recognized as having title to their territories, but the State did not take the request into account and did not take significant action to do so (IAC THR, 2006).

Consequently, in October 2000, the Association of Saramaka Authorities (AAS), together with twelve Saramaka captains who represented the people and likewise, filed a complaint with the IDH Commission (Navas Iturralde, Saramaka People Case vs., 2015). However, in March 2006 the Commission only admitted the report that included recommendations for the State, so in June 2006 the Commission decided that the problem persisted in Suriname and filed a complaint against the State of Suriname with the Inter-American Court (IAC THR, 2006). The case is based on the illegal construction of the Afobaka dam and reserve on the lands of the Saramaka community and is considered illegitimate because there was no prior consent on the part of the people for the development of the project. The consequence of this construction was that a large area was flooded, and the community had to move in precarious conditions, given that they did not have access to electricity in the “transmigration” villages and minimal access to food for their subsistence. In the same way, these events caused a spiritual and moral affection due to the destruction of the sacred places for the Saramaka people (Navas Iturralde, Case of the Saramaka People vs., 2015). What was pronounced was an antecedent part of the demand, since the most important thing was that the State of Suriname had not adopted effective measures to admit the right to use and enjoy the territory traditionally inhabited by this people they inhabit; and the State would not have complied with its responsibility to create provisions of domestic law to protect and ensure the rights of the Saramaka people (IAC THR, 2007). In other words, for these reasons and because of the Afobaka project, the Saramaka people suffered a precarious displacement without being able to resort to their rights, since they were not enforced in their country.

After an exhaustive trial, the Court determined that the State of Suriname did not comply with the following articles of the American Convention on Human Rights: Article 1 (obligation to respect rights), article 2 (duty to adopt provisions of domestic law), article 21 (right to private property), article 25 (judicial protection), article 3 (right to recognition of legal personality) (IAC THR, 2006), article 253 (provisions of domestic law), article 354 (right to recognition of legal personality); although it ratified the convention in 1987. Furthermore, the Court, based on Articles 1 – 21 of the Convention, states that, “Members of the Saramaka people should be considered as a tribal community and that the Court's jurisprudence regarding the property rights of indigenous peoples is also applicable to tribal peoples, given that they share distinctive social, cultural and economic characteristics, including the special relationship with their ancestral territories, which requires special measures following international human rights law to guarantee the physical and cultural survival of

this people” (IACTHR, 2007). Given this, the judgment of the Court was: the State must delimit, demarcate and grant collective title to the territory to the members of the Saramaka people; the State must grant the members of the Saramaka people legal recognition of the collective legal capacity corresponding to the community that they comprise; The State must eliminate or modify the legal provisions that impede the protection of the right to property of the members of the Saramaka people and adopt, in its internal legislation and through prior, effective and fully informed consultations with the Saramaka people, legislative measures or other nature necessary in order to recognize, protect, guarantee and make effective the right of the members of the people; the State must adopt the legislative, administrative or other measures that are necessary to recognize and guarantee the right of the Saramaka people to be effectively consulted. The State must allocate the amounts established in the Judgment of Preliminary Objections, Merits, Reparations and Costs as compensation for pecuniary and non-pecuniary damage to a community development fund created and established for the benefit of the members of the Saramaka people in their own traditional territory; among other. On the other hand, according to the Inter-American Court, what happened in Suriname with the Saramaka people also violates the law of other international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights (IACTHR, 2006).

The special thing about this case was that the Inter-American Court for the first time proclaimed that a non-indigenous community could enjoy indigenous rights, if they share some characteristics, and if this is considered a tribal community protected by international law. Likewise, the Court affirmed the existence, in certain circumstances, of a right to the property despite the absence of any official title to the property. Also, the body set a milestone on the relationship between the territory and the survival of a community when the land is used for economic, cultural, social, and religious purposes (ESCR- Net, 2014). Finally, this was a case in which the right to prior consultation was specifically recognized for the first time by recognizing the requirements to be met for its validity (Navas Iturralde, Case of the Saramaka People vs., 2015).

In conclusion, this was a case that marked a before and after in the IDH System on issues of the right to prior consultation, the rights of assailable indigenous peoples, for tribal communities and the right to territories due to social and cultural survival. It can also be seen that even though the Saramaka people were originally from Suriname and therefore lacked rights for that State, the Saramaka people, through the NGO Forest Peoples Program and their own Association of Authorities, came to present their case before a binding international entity and thus achieve the development of their rights, and therefore achieve their freedom.

#### **2.4.3 Case of indigenous communities' members of the association Lhaka Honhat (Our Land) vs. Argentina**

The Inter-American Court of Human Rights issued a ruling on February 6, 2020, through which it announced that there is an international responsibility on the part of the Argentine Republic given that it violated different rights of 132 indigenous communities that live in the Department of Rivadavia – Salta Province (IACHR, 2020, p. 1). The facts of the case are the following: the Argentine indigenous communities Wichí (Mataco), Iyjawaja (Chorote), Komlek (Toba), Niwackle (Chulupí) and Tapy'y (Tapiete) (IACHR, 2020, p. 2) announced a claim on land properties located in the province of Salta, given that it is a problem that has been going on for 35 years and during that time Argentina admitted a series of actions and norms for the recognition of indigenous property; However, These regulations were not adequate for the recognition of indigenous property. They argue that there is a non-indigenous population in the territory who carry out activities such as cutting down trees, raising livestock and having fenced properties; In addition, the State has established projects and works on these lands (IACHR, 2020) that have consequently caused forest and biodiversity resources to decrease, and abruptly damaged the traditional way in which the communities had access to their food and water. After the Court thoroughly analyzed the case, it determined that the Argentine State violated the rights to community property, cultural identity, a healthy environment, adequate food, and water (IACHR, 2020, p. 1). and it abruptly impaired the traditional way in which communities had access to their food and water. After the Court thoroughly analyzed the case, it determined that the Argentine State violated the rights to community property, cultural identity, a healthy environment, adequate food, and water (IACHR, 2020, p. 1).

In this way, the Inter-American Court ruled that the State, despite having ratified the Inter-American Convention in 1984 (OAS - Secretariat for Legal Affairs, 2014) did not comply with what was agreed in article 26 of the instrument given that it did not ensure that indigenous communities could determine the activities on their territory; the art. 8 on the judicial guarantee of the reasonable term, because the Court of Justice of Salta annulled a Decree in favor of Lhaka Honhat without justification; and finally article 2 regarding that the State must enforce the provisions of domestic law (IACHR, 2020, pp. 2 – 5). Finally, the Court ordered Argentina to take reparation measures as soon as possible and within a maximum period of six years, these measures are: to take the necessary actions to define, demarcate and grant a title that recognizes the ownership of the 132 indigenous communities over their territory, the title must be unique, that is, one for all the communities and relative to the entire territory, without prejudice to the agreements of the communities on the use of the common territory; remove the fences and livestock of Creole settlers from the indigenous territory



and carry the transfer of the Creole population out of that territory, promoting that this is voluntary, avoiding compulsory evictions during the first three years and, in any case, ensuring effective protection of the rights of the Creole population, which implies making possible the resettlement or access to productive lands with adequate property infrastructure. In addition, The Court established that its Judgment constitutes by itself a form of reparation and also ordered the State to refrain from carrying out acts, works or undertakings on the indigenous territory or that could affect its existence, value, use or enjoyment, without the prior provision of information to the victim indigenous communities, as well as adequate, free and informed prior consultations; create a community development fund and implement its execution within a period of no more than four years; among other flexible measures (IACTHR, 2020, pp. 5 – 6).

On the other hand, the demand made by the indigenous people was of the utmost importance given that it was a rapid response to the emergency due to malnutrition that these people are experiencing to this day. Likewise, the Judgment marked an important milestone in Argentina for the fight for the rights of native peoples, and it is the first time that the Inter-American Court has issued a judgment on a large-scale territorial dispute. Also, it was the first time that the Argentine State was presented with a case of violation of the rights to cultural identity, healthy environment, food, and water (CELS, 2020). Finally, the interesting thing about this case is that it determines a sentence in which the Creole population is asked to be moved out of the indigenous territory in order to protect the lands and culture of the Lhaka Honhat community but it will also be a case in which we can appreciate how national and international courts are able to protect the rights of different vulnerable groups, in this case the Creoles, in difficult situations (Cabrera, Cerqueira, & Herencia, 2020).

In conclusion, this is a case in which the Inter-American Court intervened to protect the rights of an extensive indigenous community that for more than 30 years struggled to gradually obtain that was corresponds to them, also through this cause, they managed to protect nature. In addition, this is a recent case so it will be interesting to see how the Argentine State complies with the sentence and even more important the measures that it is going to take to withdraw the Creoles from the Lhaka Honhat territories without there being abuse or claims to them. Finally, it is a case that will change the future for indigenous peoples in Argentina since it must enact a law that regulates indigenous community property and link it with the right of participation and consultation.

Regarding the three cases analyzed, it can be summarized that they are cases of great importance and that each one has its peculiarities regarding the different rights of indigenous peoples that are reflected in the Inter-American Convention on Human Rights. In addition, these are cases in which the States not only failed to protect this minority in their countries but also failed to comply with their internal regulations and the international regulations to which they were subscribed, such as ILO Convention No. 169, the Declaration of the United Nations on the Rights of Indigenous Peoples, among others. It can also be deduced that the Inter-American Human Rights System and especially the Inter- American Court is the main jurisdictional body in the region for the defense of the rights of

nature and, for the protection of the rights of indigenous peoples and communities. Finally, and in agreement with Pedro Bermeo Guarderas; activist for the rights of nature, indigenous peoples, and members of the Yasunidos collective; each sentence handed down by the Court sets a precedent in the region so that other indigenous peoples worldwide can in the future defend their rights before the States or other entities (Bermeo Guarderas, 2021).

## **Conclusion**

In summary, this is a chapter that focuses on International Organizations and International Instruments that address the issues of protection of indigenous rights and peoples in voluntary isolation; and in this way, how these instruments are used at the time of legally protecting the peoples, which is demonstrated in the three cases of indigenous peoples vs. States before the Inter-American Court of Human Rights. At the same time, it must be clear that these instruments can be binding or non-binding, that is, the first is international treaties called pacts, statutes, protocols, conventions, or conventions that are binding for the States that ratify them and the second are the statements, principles, guidelines, uniform standards, and recommendations.

However, at the global level, three instruments are of utmost importance to protect indigenous peoples. First, ILO Convention No. 169, which contains 46 binding articles that establish standards of respect for the rights of indigenous peoples: however, it does not have a specific segment on the rights of PIAVs. Second, the United Nations Declaration on the Rights of Indigenous Peoples, which is a non-binding instrument that only has the value of a recommendation; Similarly, it is made up of 46 articles that raise issues such as identity, collective, cultural, health, education, employment rights, the right to persevere and strengthen their traditions and culture as well as work for their development under their needs and aspiration, although it does not have specific regulations for isolated peoples either. Finally, and in this case, the most important instrument is the American Declaration on Indigenous Peoples (OAS). This is a legally binding instrument that has 41 articles for the protection of collective and individual rights of indigenous peoples, within which specific articles can be found for the protection of indigenous peoples in voluntary isolation. Furthermore, it is the main instrument given that it is part of the Inter-American Human Rights System, through which the rights of individuals and especially minorities are protected in the region. It is also the norm used in the cases of indigenous peoples vs. States before the Inter-American Court. Finally, the Declaration is an essential part of what is currently the case of Peoples in Voluntary Isolation Tagaeri vs. Ecuador within which you can find specific articles for the protection of indigenous peoples in voluntary isolation. Furthermore, it is the main instrument given that it is part of the Inter-American Human Rights System, through which the rights of individuals and especially minorities are protected in the

region. It is also the norm used in the cases of indigenous peoples vs. States before the Inter-American Court.

Regarding the other international instruments, it can be mentioned that most conferences, programs, agreements, among others, that help to protect indigenous rights also address environmental protection issues or vice versa, since they are issues that they have an intimate relationship with. In addition, they are mechanisms that support the main international instruments and governments in making decisions about cases or in creating regulations for indigenous peoples. On the other hand, on the international scene there are also International Organizations that are divided into two groups: IOs, which are organizations that are constituted by subjects of Public International Law, must also be under the regulation and have an international presence; and NGOs that are organizations founded and governed by a group of private citizens with a declared philanthropic purpose, and sustained by private individual contributions (OECD, 2011). Nevertheless, NGOs have participated in important projects in conjunction with indigenous peoples for their survival in all areas, they have also collaborated with more Organizations to protect the rights of indigenous peoples and have been key actors now in that an indigenous community is part of a case before the Inter-American Court through financial, legal, and investigative support. In spite of, those that can be highlighted are those that are part of the UN since they are a group of specialized bodies in the protection of the rights of indigenous and tribal peoples in terms of financing, research, and protection. In the same way, these IOs have helped indigenous community leaders have a role on the international stage and in this way; they can represent themselves and create allies for their security. Finally, the IOs have created different mechanisms to protect the different rights of indigenous peoples, however minimal they may be, and an example of this is the protection of the intellectual property of their ancestral knowledge.

Were created different mechanisms to protect the different rights of indigenous peoples, no matter how minimal, and an example of this is the protection of the intellectual property of their ancestral knowledge. However, worldwide there are a variety of International Organizations that focus on specific problems that the world is going through. However, they must always keep abreast of problems that may harm their operation, for this reason, International Organizations such as the World Bank, the European Union, OAS, the Pacific Alliance, among others, speak out against indigenous peoples. Most of the organizations that have to do with the economic part want that when financing projects to a state, it does not violate the rights of indigenous peoples so as not to contract problems, so they have created conditions in which the states must protect these peoples first and foremost. Y, the other organizations ensure that their member states protect the peoples through their constitutions so that they can comply with what is agreed in their treaties. Despite the interest of certain international organizations, even the entities of the American continent, apart from the OAS,

do not take into account the issue of protection of indigenous peoples, which is why organizations such as the United Nations and the OAS recommend regional institutions such as ACTO, CAN, OAS, MERCOSUR deal with issues that have a focus on the development, protection and propagation of the rights of PIAV since it is the region that encompasses the majority of these communities (OHCHR, 2009).

Finally, in the cases it is possible to observe how the regulations of the Inter-American Convention on Human Rights, ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples are used for the Inter-American Court to assemble a case and can give a sentence based on the failure of the States to comply with what is agreed in these instruments. Finally, it is extremely important to mention the cases since it is possible to know how the Tagaeri people in voluntary isolation could defend themselves in the international arena and the precedents that were set with these cases could also be used by the people before the Inter-American Court. 169 of the ILO and the United Nations Declaration on the Rights of Indigenous Peoples so that the Inter-American Court can assemble a case and can give a sentence based on the failure of the States to comply with what is agreed in these instruments.

## **CHAPTER 3**

### **OIL EXPLOITATION IN ECUADOR AND ITS IMPACT ON INDIGENOUS PEOPLES AND NATIONALITIES**

Ecuador is a megadiverse country that has a variety of animal and plant species concentrating 10% of all species in the world, for this reason, it is known worldwide as a country with immense natural wealth. In addition, it is estimated that the place with the greatest biodiversity is its Amazon since one hectare can encompass up to 70.000 species of insects, 6.000 species of butterflies, and 324 different species of mammals in the same habitat (Ministry of Tourism, 2014). Similarly, Ecuador is a multicultural and multi-ethnic State inhabited by around 15 nationalities and different indigenous subgroups (Ambiente Radio, 2018), which defines the country as a place of high diversity. Likewise, the country is a mining potential that has extensive reserves of gold, silver, copper, and more mining products (Central Bank of Ecuador, 2015); as it also has large amounts of oil under its soil, especially in the Amazon area, which has made this hydrocarbon compound the basis of the local economy (Pastor, 2020).

It should be noted that oil has remained the world's main energy matrix, which is why it continues to be the most important resource at the global level and is a significant indicator of the international economic situation; It also forms 2.5% of the world's gross domestic product (GDP), and in 2019 it was estimated that daily oil consumption was 100.3 million barrels (Pastor, 2020). However, in Ecuador the oil industry is important since it represents 40% of total exports, becoming the main export product, and corresponds to 9% of GDP. Oil has been considered as the backbone of the Ecuadorian economy and finance in the last decades because it is the fundamental element for the growth of foreign exchange sources; because it is the most important domestic production chain, it generates approximately 38,122 jobs; balances the trade balance, and contributes to the financing of the State budget *ibid*. Given these reasons, the State has created regulations such as the Hydrocarbon Operations Regulation that support oil exploitation due to economic necessity (Ministry of Hydrocarbons, 2018).

However, the oil industry in Ecuador has caused major cases of the world's most notorious environmental and social disasters. In the first place, all the phases of oil extraction spoil the Amazon, which is a tropical humid forest of high biodiversity. Second, the consequences of soil contamination, the product of spills and waste from companies, are the low productivity of the land that causes losses to farmers in nearby communities. Likewise, the gas lighters of the oil stations and the burning of the plant materials that are mixed with crude oil produce high pollution of the atmosphere in these areas.

All the consequences have caused great economic losses not only to the indigenous population but also to the Creoles who work in agriculture and livestock in the areas; even pollution has caused an increase in prostitution, insecurity, violence, unemployment and poverty in populations that try not to have a relationship with the extractives industry. Finally, in places where there is oil spill and contamination, it has been noted that there are a greater number of patients, especially cancer, malformations, abortions, skin, and respiratory infections, anemia, and malnutrition (Vogliano, 2009).

Given all the antecedents, this chapter will focus on recounting how oil exploitation has developed in Ecuador, in the Amazon, and especially in the Yasuní ITT National Park through historical antecedents and current actions. In the same way, it will be announced that the 2008 Constitution and the Ecuadorian policies regarding the exploitation of non-renewable natural resources will be announced, to end with the reflection of the consequences that oil extraction has brought for the indigenous peoples and nationalities of the Amazonia.

### **3.1 Historical tour of oil exploitation in Ecuador**

The book "Ancón" points out that, in Ecuador, specifically in the Santa Elena Peninsula, oil was already known before the arrival of the Spanish settlers; because there are indications that the natives of the area called it to copy or cope and extracted it primitively to export to Peru where they manufactured pitch (Estrada, 2013). Similarly, in the "History of the Kingdom of Quito" it is related that in the communes of the province of Santa Elena Chanduy and Chongón, long-lasting natural springs could be found that contained tar and tar, substances that were used to waterproof or seal the wooden joints of the boats (De Velasco, 2013). Despite the antecedents, only in the mid-nineteenth century are known accurate data about oil and its existence, for example, in 1858, in the book "Geography about Ecuador" it was pointed out that in the Hollin river and the springs of the Cordillera Cutucú in the Morona Santiago province there was asphalt and tar (Villavicencio, 2013). Now, in 1878, the first oil concession in Santa Elena was granted to a Colombian citizen named MG Mier to extract oil, tar, and kerosene from the area. In the year 1886 the first Mining Code of Ecuador was issued by the Congress of the Republic that proclaimed state property over mines although it did not recognize dominion over the land that covered them. In the year 1980, Congress modified the Mining Code to allow the leasing of mines for up to 50 years, an amendment that was denied. Years later in 1902 the lands of the Carolina deposits, Las Conchas and Santa Paula (Santa Elena) were granted to Salvatore Viggiani, later these 1.200 hectares passed into the hands of Doctor Francisco Illescas who was the owner of the Carolina Oil Company. In 1909 the government signed a contract with the Carlton Granville Dunne company for the exploration and exploitation of mines and oil, asphalt, and natural gas fields. In the same year, the concession for the exploration and exploitation of 23 oil fields was also granted to the company Concepción Ecuador Oil Limited (EP Petroecuador,

2013, pp. 16-17). Entering the year 1911, several historians state that oil exploitation began in Ecuador this year when the first oil well was drilled on the Coast (Martínez, Parra, & Reis, 2016). On the other hand, it is said that in 1911 the first manual percussion drilling equipment was imported into the country from England, and in the same year in Santa Elena the first oil well named “Ancón 1” was discovered, which starts the oil activity in Ecuador.

In 1921, the first law on hydrocarbon deposits was issued in the presidential mandate of José Luis Tamayo, this law is promulgated because it could be evidenced that exploitation was already a valuable issue, since only in the "Ancón 4" well approximately 30,000 barrels a day were extracted; and for the year 1927, there was a large-scale increase in the oil production of the Anglo company and therefore in the country. The issue of oil was gaining ground, so the State saw the need to create in 1933 the General Directorate of Mines and Petroleum, with Minister Enrique Coloma Silva who was also the director for life of the Anglo oil company. Ten years later a Petroleum Law was proclaimed in the government of Federico Páez that favored the entry of foreign companies to Ecuador; three years later, in 1938, the Anglo company built the first refinery with the same name in La Libertad - Santa Elena (EP Petroecuador, 2013, pp. 17-18). In the Costa region in those years, recognized transnationals such as Texaco, Chevron and Shell (Martínez, Parra, & Reis, 2016) received privileges and concessions without leaving benefits to the State. A year later, Manabí Exploration Company was allowed to search for oil in Esmeraldas in a border area with Colombia (EP Petroecuador, 2013, p. 18).

The Military Junta that governed Ecuador in 1964 granted the Texaco-Gulf company the exploration and exploitation of 1,431,450 hectares in the Amazon for 50 years. In 1967 Texaco drilled an oil well in the Amazon for the first time and from that moment became the main oil exploration company in Ecuador, drilling 399 wells, building 22 drilling stations and extracting 88% of the national oil production. (Petroecuador, 2011). In the same year, the deposits in Santa Elena were almost depleted so that the operations carried out in the place were no longer profitable, which is why since then the refining plant and the distribution of gasoline, which years later was able to supply fuel to the domestic market. At that time, the Ecuadorian population grew and so did the demand for oil, for that reason the governments began to look for hydrocarbons in the surrounding area of the country, and they opened several indiscriminate concessions and leases to both natural persons and private companies (EP Petroecuador, 2013, p. 18).

Between 1972 and 1981 the oil boom occurred while a military government presided over the country, during this government public policies were created aimed at the regulation and control of national oil action. In this oil period, changes were palpable that were based on the participation that the Ecuadorian State had in international energy spaces such as the nationalization of Gulf Oil (oil

company) that maintained the internal monopoly of the market, then transferred that power to Corporación Estatal Petrolera del Ecuador - CEPE to finally be the State that will take control of the CEPE - Texaco consortium (FONTAINE, 2012). In 1982 there was a third stage of oil policy in Ecuador (Parra, 2015) that lasted approximately until 2006. In this period there was a great commercial opening that changed the usual economic model that the country had. In this way, the privatization of productive wells that until that date was under state protection was promoted and an example of this was the productive sector. Likewise, the neoliberal policies implemented targeted direct foreign investment (Llanes, 2007) that brought with it an oil company that took a leading role in later years. It should be noted that in 1989 Petroecuador was established, constituted by a holding company that included a parent company and six subsidiaries, three permanent that are Petroproduccion - Petroindustrial - Petrocomercial, and three temporary that are Petropenínsula - Petro Amazonas - Petrotransporte (Martínez, Parra, & Reis, 2016, p. 59). Finally, the fourth period of oil policy occurs between 2006 – 2007 while Alfredo Palacios and then Rafael Correa Delgado ruled, in which a new trend of oil policy is created characterized by transcendental reforms in the sector such as changes in regulations, for a greater collection of oil rent; reforms to the Hydrocarbons Law for the State to receive 50% of the revenues from the rise in the base price of oil, but in the end, the government ended up receiving 99% of these profits (FONTAINE, 2012, pp. 59 -60); and the institutional and normative transformations that implanted the state influence in the politics, regulation and control of the oil sector. All these modifications were strengthened when Occidental Petroleum Corporation left the country (Martínez, Parra, & Reis, 2016, p. 60).

An important point to note is the history of Ecuador and the Organization of Petroleum Exporting Countries (OPEC). During the governance of the Military Junta in 1969, the Texaco – Gulf Company drilled the first productive well known as "Pozo Lago 1" which marks a before and after about nationalist policy of natural resource management. In this way, in 1972 the creation of the CEPE – Texaco Consortium was facilitated. One year later (1973) Ecuador joined OPEC which caused the State to enact a public policy aimed at investment in the hydrocarbon sector. These years could be pointed out as the time when Ecuador opened to the international market and especially a time when the United States became an important partner for the country. In 1989, with the creation of Petroecuador and the nationalist policy, a period of participation contracts, provision of services and marginal fields in the oil sector began. Consequently, a neoliberal era began that ended with Ecuador's exit from OPEC in 1993. However, Ecuador's exit from this Organization caused a decrease in the income from hydrocarbon resources that represented a good portion of the national economy (Cordova Vaca, 2011). Years passed and in 2007 Ecuador re-entered OPEC since, after a long debate and various consultations, the government concluded that being part of OPEC not only brought economic or technical benefits, but also provided knowledge, commercial fluency, and access to information and experience (El Universo, 2007). Nevertheless, Ecuador again withdrew from OPEC



in January 2020, according to José Augusto Minister of Energy and Non-Renewable Natural Resources, for reasons of internal issues and challenges related to fiscal sustainability that the country had to assume (Agusto, 2019).

About Ecuadorian history, since 2004 to 2014 oil exploitation has remained constant. In other words, between the years 2003 – 2013, there was a commodity boom that was simultaneously followed by a strong devaluation of the price of oil. Despite this at the time oil represented 51% of the country's exports. Specifically, between the years 2003 – 2007, the private sector was the largest producer and exporter of oil, contributing 51% of the country's crude exports. This data is important given that since the 1990s no private company had had such an impact on oil production (Martínez, Parra, & Reis, Oil exploitation in Ecuador in numbers, 2016, pp. 64 - 65). It is for this reason that in 2004 the Argentina company “Techint” began its oil operations in Ecuador through the Heavy Crude Pipeline, which helped to expand crude oil production in the country (BCE, 2007). Between 2006 and 2009, crude oil production had a decrease (Aráuz, 2010) due to various problems such as: Ecuador at the time had already exploited half or more than half of its reserves, each time less deposits were being discovered or were smaller (Acosta, 2009) and restrictions on the expansion of oil borders were presented (Villavicencio, 2010). In other words, in the first half of the 2000s, there was an increase in the participation of the private sector and in the second half it was state companies that oversaw total oil production (ECB, 2007).

Between 2010 and 2011 the Ecuadorian government signed Service Provision contracts for the exploration and exploitation of hydrocarbons in different areas, and in 2012 it signed the same contracts with financing for production and recovery of Reserves in mature fields. These contracts were not enough for the State to achieve its economic goal through the exploitation of hydrocarbons, so it made a decision that would bring repercussions to the indigenous peoples that inhabit the Yasuní National Park and specifically to the peoples in voluntary isolation (AIHE, 2020).

In other words, in 2013 the government of Rafael Correa put an end to the Yasuní – ITT initiative that began in 2007 and through which it was expected to obtain 3.6 billion dollars in international aid for the protection of the Amazon, but until August of 2013 was only deposited at International Trust; administered by the UN Development Program; \$ 11'321.72 dollars, and in the National Trust the sum of \$ 2.041.341.10 dollars, which in total did not meet the expected goal (Decree No. 74, 2013). In addition, former President Correa argued that from the exploitation of the Ishpingo, Tambococha and Tiputini fields, a net value of \$ 18.292 million would be obtained, which would be used to overcome poverty in the Amazon. Given these reasons, the State decided on August 15 – 2013, to implement Decree 74 which established that the President of Ecuador, Rafael Correa, should be immediately informed about “the environmental, technical, financial and constitutional viability of the exploitation of the oil fields in the Yasuní National Park, to properly request the

National Assembly to authorize oil exploitation in the Yasuní National Park” (Decree No. 74, art. 4, 2013). If the Assembly authorizes oil exploitation in the area, "it may not be developed in an area greater than 1% of the Yasuní National Park" (Decree No. 74, art. 5, 2013). Thus, in October 2013 the National Assembly declared *national interest*<sup>1</sup> the exploitation of Blocks 31 and 43, in the latter, are the Ishpingo – Tambococha – Tiputini fields, based on the attributions conferred by article 407 of the Constitution of Ecuador and article 49 of the Organic Law of the Legislative Function. In this case, the declaration of national interest was based on the fact that the money obtained from the exploitation of these Blocks in the Yasuní would help to make effective the objectives of the Development Regime (Oil Exploitation of Blocks 31 and 43 within the Yasuní National Park, 2013) that consist of: improving the quality of life and increasing the capacities and potential of the population; build an economic, fair, democratic, productive, supportive and sustainable system, based on the equal distribution of the benefits of development, of the means of production; recover and conserve nature and maintain a healthy and sustainable environment; guarantee National Sovereignty; promote a balanced and equitable land use planning; and protect and promote cultural diversity and respect their spaces for reproduction and exchange (Constitution of Ecuador, art. 276, 2008).

On the other hand, the resolution mentions that: “before the exploitation of the natural resources existing in Blocks 31 and 43 in which indigenous communities, peoples and nationalities live, the State, through the competent authorities, has the Obligation to make a prior consultation in the terms and conditions specified in this argument first” (Oil Exploitation of Blocks 31 and 43 within the Yasuní National Park, 2013). A week after the declaration, the government announced that once the prior consultation was carried out and the environmental permits were obtained, PetroAmazonas would start oil activity in the Tiputini field (El Universo, 2013). Even though a popular consultation had to be held to initiate the exploitation of this Yasuní territory, Rafael Correa ruled out this option and challenged the groups to social organizations gather 5% of the signatures of the electoral roll to give way to a consultation with the citizens (El Comercio, 2013). The Yasunidos Collective took up this challenge and in 2014 presented a total of 750.000 signatures for there to be a popular consultation on oil exploitation in Yasuní, however, the National Electoral Council annulled approximately 400.000 signatures in two weeks, so it was not possible to allow the popular consultation and Blocks 31 – 43 are being exploited.

In 2020 and after the CNE (National Election Council) will carry out an investigation at the request of the Yasunidos Collective regarding the signatures for the popular consultation, the institution concluded that: the high command of the CNE at that time requested that thousands of

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<sup>1</sup> A policy of national interest refers to those public decisions that cross the demands, interests, and rights of everyone in the short, medium, and long term. These are those issues that are directly connected to the idea of the common good and that, therefore, transcend interests and the demands of the situation (Oil Exploitation of Blocks 31 and 43 within the Yasuní National Park, 2013).

signatures be arbitrarily eliminated to prevent the consultation from taking place. It must be borne in mind that in 2014 the CNE's high command had strong ties with then-President Rafael Correa, who always had an interest in exploiting the Yasuní (Sarmiento, 2021). Finally, in 2018, in the presidency of Lenin Moreno, a popular consultation was held to reform the Constitution and to consult Ecuadorians on matters of national interest. Question 7 referred to the "protection of the Tagaeri – Taromenane Intangible Zone" and it said: Do you agree to increase the intangible zone by at least 50.000 hectares and reduce the oil exploitation area authorized by the National Assembly in the Yasuní National Park from 1.030 hectares to 300 hectares?" (Beltrán, 2017). The idea of increase the Intangible Zone was highly accepted by the population, and the ZITT (Intangible Zone Tagaeri – Taromenane) increased by 50.000 hectares, that is why at present the Ishpingo – Block 43 oil project is being carried out by the State and Petroecuador.

Continuing with the country's oil history, in 2014 there was a sharp drop in the price of oil, which for obvious reasons affected the country's economy. For this reason, in 2015 the State, through Petro Amazonas, signed a contract with the Schlumberger Company to operate in the Auca field for an investment of \$ 4.900 million over 20 years. Subsequently, in 2016 PetroAmazonas signed nine contracts with national and international service companies for the development of nine mature fields. In September of the same year, PetroAmazonas annexed Block 43 ITT to national production, this being the first platform to produce within Tiputini C. In 2017 Ecuador stated hunting for strategic partners for the exploitation of 15 fields located in the Amazon. Also, the Ministry of Hydrocarbons together with the United Nations Development Program (UNDP) signed an agreement to carry out a cooperation project where they would carry out technical evaluations of 5 oil projects managed by Petroecuador. In 2018 PetroAmazonas signed contracts for foreign investment for 4 oil fields in Sucumbíos and Orellana; and it did the same with private companies in oilfields located in the provinces of Orellana, Napo, and Sucumbíos. The following year 2019, the Ministry of Hydrocarbons announces the decision of the State to stop being part of OPEC; the same year, President Lenin Moreno signs Decree 883 in which he eliminates subsidies and frees the price of the diesel which brought discontent among various sectors of the population leading to protests. Consequently, there was a serious economic, social, and political crisis that pressured the Government to repeal the Decree. During the protests, crude production declined because at least 20 oil fields paralyzed their activities (AIHE, 2020). In 2020, the COVID – 19 pandemic hit the country strongly, unleashing a health and economic crisis. At the same time, there was the rupture of oil pipelines caused in April and the budget cut of the state oil company PetroAmazonas, for these reasons the national production of crude oil had a fall of 12.5%. Finally, in 2021 the oil activities continued despite the country was in confinement by COVID – 19. A reserve replacement project was even started, for which the regions where oil exploration will be carried out have already been determined. In addition, on January 1, a new public oil company was established through the merging of Petroamazonas and Petroecuador

(Ortíz, 2021).

In summary, from the first discovery of oil in Ecuador in 1911 this mineral began to be commercialized and exploited, and over the years it was remarkable how the country built its history around oil activity, like internal regulations and adherence to international regulations made by the Ecuadorian government to continue with the export of crude were also evident. Unfortunately, large-scale exploitation has also had consequences such as the fact that there are no longer so many oil fields or that these are increasingly being reduced. At present, the country's economy is still dependent on oil exports and the country's well-being will be tied to the income from this activity and the volatile price changes that it has.

### **3.2 Oil exploitation in the Amazon**

Ecuador is part of the 9 countries that have territory in the Amazon, its surface in the country is 120.000 km<sup>2</sup>, forming 48% of the national territory. Even though Ecuadorian tropical forests are a small fragment of the entire Amazon, according to Greene president of Cedenma, it is considered the area with the greatest biodiversity in the Amazon River basin (López, 2019). In the same way, the sub- Andean basins of eastern Ecuador are appreciated by scientists, and for being a strong source of economic income; for example, in the northeastern zone along the Hollin, Jodachi and Napo rivers, its sands are made up of heavy oil and asphalt that are export products (Paladines, 2005). Thus, the Amazon region in Ecuador has been strongly linked to oil exploitation for decades.

In 1921, the government of José Luis Tamayo approved the concession to Leonard Exploration Company for approximately 50 years of an area of 25.000 km<sup>2</sup> in the Amazon region to be studied, explored, and exploited. However, 16 years later the contract was cancelled as the company refused to pay a debt to the State. At the same time, oil companies such as Minas y Petroleos del Ecuador, Royal Dutch Shell and Standard Oil were allowed to begin explorations in the Amazon basin and the results were the discovery of potential hydrocarbon reserves. Years later, in 1940, during the presidency of Carlos Alberto Arroyo del Río, the exploration was awarded to the Shell Company in the Amazon area, which drilled several wells in Tena and Pastaza (Petroecuador, 2006). Despite this, in 1948 the company returned part of the concession to the State, objecting that there was no oil in the area. For this reason, in 1952, President Galo Plaza declared after a visit to the region, "The East is a myth; destiny has wanted us to be an agricultural country, not an oil country." Four years earlier, in 1948, the concession for the exploitation of four million hectares was assigned to the Royal Standard Consortium (EP Petroecuador, 2013, p. 20).

On the other hand, some historians say that oil exploitation in the country's Amazon began in

the 1950s; at that time deposits were found in the south-central Amazonian zone of heavy crude oil. When exploring the areas, they came across indigenous peoples who did not allow strangers to enter their territories, which made their activities difficult. Although, the explorations in the northern part of the region, Sucumbíos, and Orellana, were accessible since they were inhabited by indigenous nationalities such as Siona, Cofán and Tetes who had greater contact with the outside, also the crude found in the place was of better quality. An important point to emphasize is that, before the oil exploration in the Amazon area, evangelical missionaries arrived at the site, they grouped indigenous communities that traditionally were scattered in a single territory and created ties between nationalities confronted by territories. These events were of great help for oil workers to enter the areas more easily; and one of the first companies to work in these territories was Texaco, which became the leading oil company in the area, settling in for around 30 years (Vogliano, 2009, p. 2).

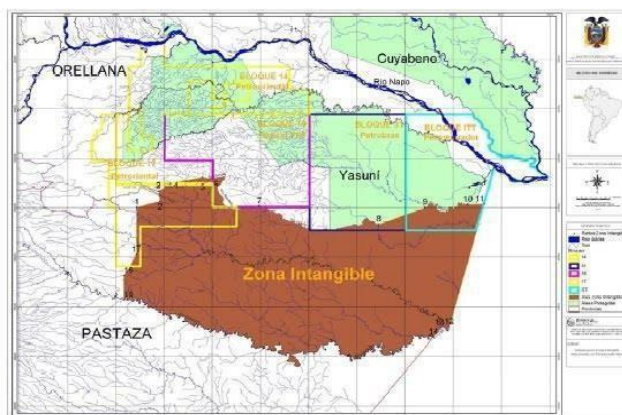
Continuing with the story, in the 60s the concession of 4.350.000 hectares was awarded to the company Minas y Petroleos del Ecuador, a company that later transferred the concession for millions of dollars to the Coca Texaco - Gulf Consortium without prior understanding of the Ecuadorian government. This act was perceived as deplorable given that the president of the company Minas y Petroleos (Howard Steven) sold the shares of the entity to eight different international companies and created his own shell company to which most of the shares were transferred. All these irregularities together with the fact that the company Minas y Petroleos did not want to comply with the regulations dictated by the State, made the government put out to tender the hectares of territory delivered. In 1964, the government granted the Texaco – Gulf Consortium a 40 year concession for 1.4 million hectares, which decreased in 1965 because a Decree was promulgated that established the number of hectares for oil exploration and exploitation (EP Petroecuador, 2013, pp. 20-21). After this unfortunate time, in 1967 the new oil era in the Ecuadorian Amazon began during the Texaco – Gulf concession when the company extracted 2.610 barrels of oil from the “Lago Agrio” file. This was a great achievement for the oil company and the State, so in 1968 the exploitation of hydrocarbon areas increased, for example, the government granted licenses to seven companies for the oil exploitation of 4 million hectares. In 1970, the William Brothers Company was in charge of building the Trans Ecuadorian Pipeline System to transfer oil from the Amazon to Balao. A year later, President Velasco Ibarra decreed two important laws, the Hydrocarbons Law that was ratified and the Constitutive Law of the Ecuadorian State Petroleum Corporation (CEPE), which was the authorization for the creation of the company that year later it became the majority shareholder of Texaco (EP Petroecuador, 2013, pp. 21 - 22). In 1972, the original Texaco – Gulf contract was investigated for irregularities, and the State forced the company to return 930.000 hectares. In addition, in the middle of that year, the oil boom took place, and it became the national economic base since Texaco – Gulf extracted thousands of barrels of crude oil for the first time in the history of Ecuador that were exported, and a great

economic change took place in the country. This was a great reason for the State to put great effort into exploring the East through the concession of 3 million hectares to the Anglo Oriente Company (EP Petroecuador, 2013, p. 22). In addition, thanks to the discovery and exploitation of these extensive oil fields in the Amazon, the country became a net oil exporter, which caused the GDP to increase by 9% per year (Fontaine, 2002).

Since 1981, international oil prices have fallen which is why the government saw the need to let transnational oil companies enter the country, providing each one with 200.000 hectares for their exploitation. Likewise, new oil companies began to carry out explorations in Ecuador, specifically in the central Amazon area, south of the Napo River, in a territory that has protected areas such as the Yasuní National Park. Subsequently, in 1986 the exploitation of crude oil began in the area, for this reason, the government modified the protection laws of the protected areas and modified the limits of national parks so that the oil companies could work in more blocks. It is worth mentioning that, to protect the oil activity, the government, together with private companies, used a speech based on the use of cutting-edge technology and corporate responsibility. It is in this way that the oil companies begin to have greater power over the territories in which oil is found and control over the indigenous peoples of the area. This is because there was an economic dependence on the part of the towns to the oil companies. After all, these companies appropriated their territories and access roads and were the source of nearby employment. A clear example of this was that to enter Block 16 of the Yasuní National Park, authorization from the Repsol Company was necessary. In 1996 the operations of it are in this way that the oil companies begin to have greater power over the territories in which oil is found and control over the indigenous peoples of the area also the hydrocarbon companies settled in the Amazon region, starting in the center, and expanded to the center south with the opening of new concessions in Pastaza and Morona Santiago.

However, it was not possible for them to initiate oil activity in the area due to the indigenous resistance of the Sarayakus and Shuar peoples. Even so, in the Ecuadorian Amazon, 4 million hectares

of forest have been used for oil hectares of forest have been destined for oil exploitation and the company Petroecuador oversees 700.000 hectares in 10 fields in this territory.



**FIGURE 1**

Source: (Amazonia por la Vida, 2010)

Already in 2000, the goal was to double the production of crude oil, for this an ambitious project was initiated, which was the construction of the Heavy Crude Oil Pipeline (OCP). Years later, in 2006, the government terminated a contract signed with Occidental, because the company committed violations of the contract, national laws and abused the rights of the indigenous population living in Block 15; at the same time the government decided to reform the Hydrocarbons Law so that the State would receive a higher percentage of the profits from oil extraction, given that the companies were the ones who took 80% and the government 20% of the revenue.

Now, it is important to talk about how the delimitation of the Tagaeri – Taromenane Intangible Zone has been taking place, and on the other hand about the Yasuní ITT Initiative since it wanted to protect the territory of the ZITT together with the indigenous peoples in isolation that they live there. First, in 1999 the then government of Jamil Mahuad, through Executive Decree No. 552, decrees as an “intangible zone of conservation forbidden in perpetuity to all types of extractive activity, the habitation and development lands of the Huaorani groups known as Tagaeri, Taromenane and other eventual that remain without contact, located to the south of the lands awarded to the Huaorani nationality in 1990 and of the Yasuní National Park” (Executive Decree No. 552, art.1, 1999). This area was approximately 700.000 hectares, located in the parishes of Cononaco and Nueva Rocafuerte, in the province of Orellana, and in the parish of Curaray, province of Pastaza (Executive Decree No. 552, 1999). Later in 2007, during the presidency of Alfredo Palacio, through Executive Decree No. 2187, the same territory was declared again as an Intangible Zone, but this time in the document the limits and coordinates of the area are indicated. Likewise, through this Decree the State created the Buffer Zone (BA) which is 10 km wide contiguous to the Intangible Zone. The reason to remake and the purpose of the BZ is to establish an additional protection zone in which the extractive activities of forest products, the granting of mining concessions and oil infrastructure works would also be prohibited, to protect the peoples in voluntary isolation. Also, the reason to do this Decree was because the first was not clear and concise. Furthermore, in the 2007 Decree, the government used the international regulations of ILO Convention No. 169 and the Universal Declaration of Human Rights, to which Ecuador subscribed, to decide to delimit this territory because according to these international regulations, "The State should legally recognize the original and traditional territories, and the condition of inalienability, inviolability, indivisibility, imprescriptibly of these, to guarantee the integrity and physical and cultural continuity of the hidden peoples not contacted" (Executive Decree No. 2187, 2007) (Figure 1 ITT Zone and Buffer Zone between 1999 - 2007).



FIGURE 2

Source: (El Comercio, 2019)

Regarding the problem of an oil spill, environmental destruction, and violation of the rights of indigenous communities in the Amazon areas by oil companies, the government in 2008, under the mandate of Rafael Correa, decided under pressure from social organizations to launch the Yasuní Initiative - ITT. The Initiative proposed that the international scene will donate a total of 3,600 million dollars to the State so that it can sustain itself economically, which was 50% of the profits left by the extraction of that number of barrels, in exchange for leaving 846 million barrels of oil underground from the Ishpingo – Tambococha – Tiputini fields and, in this way, avoid major environmental and social problems in this Amazon area (Vogliano, 2009, p. 3). In addition, the Initiative proposed that this collected of money would be used in three aspects: the management of 19 protected areas, the national reforestation program, and the change in the energy matrix (El Telégrafo, 2013) (Mena Erazo, 2013).

The international aid was raised because, when protecting the Yasuní ITT, greenhouse gas emissions would be avoided worldwide, so it was not only protection to the Amazon of Ecuador and its indigenous peoples but the entire planet (Larrea, 2009). However, until 2013 it was only possible to collect in the International Trust, administered by the UN Development Program, \$ 11'321.72 dollars and in the National Trust the sum of \$ 2'041.341.10 dollars, in total they did not meet the expected goal (Decree No. 74, 2013). In the same year, Former President Rafael Correa puts an end to the Yasuní ITT Initiative due to lack of international support and because the country needs the money that the extraction this oil would leave it. Furthermore, Correa said: "that from the extraction of crude in the ITT zone a total of \$ 18.292 million would be obtained that would be distributed to help the country and to end poverty in the Amazon" (El Universo, 2013). A few days after



announcing that he would not follow the Initiative, Rafael Correa issued Executive Decree No. 74 which established that the President of Ecuador Rafael Correa should be immediately informed about “the environmental, technical, financial and constitutional viability of the exploitation of the oil fields in the Yasuní National Park, to properly request the National Assembly to authorize oil exploitation in the Yasuní National Park” (Decree No. 74, art. 4, 2013). The National Assembly decided to authorize oil exploitation in the area because there was a national interest. A week after this decision was made, the State announced that it would begin with the exploration and oil exploitation in the Tiputini field of Block 43 located in the Yasuní ITT (The Universe, 2013); although the government stressed that ITT's oil exploitation would affect only 0.1% (10.000 hectares) of the Yasuní National Park (El Telégrafo, 2013) (Mena Erazo, 2013).

Between 2010 and 2011, oil extraction was profitable for the country due to the increase in its price at the international level, which is why the President Correa cited rounds of oil bidding to extract the crude from the territories of the province of Pastaza that are under the Yasuní Park (Paz Cardona, 2019). Also, in 2010 the company Petroecuador founds the subsidiary PetroAmazonas intending to take charge of the exploration and exploitation of several important Blocks such as the 15 – 7 – 21 – 18 and Armadillo located in the provinces of Orellana, Sucumbíos, and Napo (Mateo & García, 2014). In 2011, the historic judgment was issued by the Sucumbíos Provincial Court of Justice against the Chevron Company (Texaco) for damages and extreme negligence with which it carried out its oil extraction activities in the Ecuadorian Amazon between 1964 – 1990 (Serrano, 2013). That same year, oil revenues decreased, representing 37.8% of the total non-financial public sector (ECB, 2012). In 2012, oil exports only represented 20% of the national GDP and since 2013 Petroecuador has transferred to PetroAmazonas the responsibilities of oil exploration and exploitation (Becerra, Paichard, Sturma, Maurice, & L, 2013). For this reason, in 2014 PetroAmazonas discovered new crude oil reserves to be exploited that approximately contained 64.83 million barrels of oil (Petro Amazonas EP, 2014). In 2015, income from oil exploitation was zero for the treasury, which caused serious economic problems for the country, so at the end of the year, President Rafael Correa announced that in 2016 Block 43 would be annexed to oil production. It is in the ITT area within the Yasuní National Park. Thus, in 2016 Vice President Jorge Glas inaugurated Block 43 and indicated that this will be the new source of wealth for the country (DW, 2016). Similarly, in the same year, blocks 79 and 83 were awarded to the Chinese company Andes Petroleum for their exploration and exploitation (Paz Cardona, 2019). Finally, in 2016 Ecuador committed OPEC to reduce its production of barrels per day to 26.000 in 2017 (Banco Central del Ecuador, 2018). In 2017, the then hydrocarbons minister Carlos Pérez declared that Ecuador must increase its production of oil barrels by 50.000 for 2018, so the government consulted with OPEC to examine the production cut that was imposed on the country. The proposal was created for reason of the bad economic streak that the country was going through (Gómez Muñoz, 2017). In 2018, the presidency was changed and Lenín

Moreno was proclaimed as president, this year the oil activity in the country did not change much, rather the Assembly had granted 1.030 hectares within the Yasuní for its exploitation. However, in February 2018, through a popular consultation, the Ecuadorian population achieved that this hectare was reduced to 300 and that the intangible area was expanded by 50.000 more hectares since it is called a mega-diverse area and also houses of peoples in voluntary isolation ( Paz Cardona, The deforestation of the oil industry puts Yasuní Park at risk | Ecuador, 2018). Despite this, in the same year the XIII Annual Energy, Mining and Petroleum Meeting was held in Quito in which the concession of Blocks 86 – 87 was proposed until the end of the year. These Blocks are in the Pastaza province on the Ecuador – Perú border and within which peoples in voluntary isolation live (MAS abanda, 2018). In 2019, the Amazon was seriously affected by the fires that arose in the areas of Brazil, Bolivia, and Paraguay, caused for the use of land in livestock and soybean cultivation (BBC News Mundo, 2019), in the same year in Ecuador the Chinese company Andes Petroleum ceases its activities in Block 79 located in Pastaza, however, it oversaw the exploitation of Block 83 where the people in voluntary isolation and the Sapara nationality live (Paz Cardona, Ecuador: the controversy over oil blocks in the Amazon and a new lawsuit against the State, 2019). According to the public Company PetroAmazonas, by the end of 2019, there was an increase in barrels of oil and one of the main reasons was that thanks to the construction of the Tambococha E and Tambococha B platforms in Block 43 ITT, it was possible to extract 79 million barrels per day in just three months, which shows that the Block has been being exploited while communities in voluntary isolation are intermittently inhabiting the area (Petro Amazonas, 2019). In 2020, as already explained, Ecuador leaves OPEC with the goal of increasing its crude production by exploiting an additional 40% of the territory that includes the Yasuní National Park (Koenig, 2019). In April of the same year, there was a strong landslide in the province of Orellana, which caused the rupture of oil pipelines and caused an oil spill that affected nearby indigenous communities such as the Sarayaku (Vatican News, 2020). In July PetroAmazonas made presentations to attract investors who wish to be part of the BOOT (Build Own Operate and Transfer) 2020 project that aims to expand and build gas and oil power generation plants to boost the oil activities of four Amazonian districts located in the provinces of Orellana and Sucumbíos (EFE, 2020). Despite the COVID-19 pandemic, oil companies such as PetroAmazonas EP continued with their activities in Block 43 and in other 23 blocks of which it is in charge (Petro Amazonas EP, 2020). Finally, until the present year 2021, the State has intensified oil extraction in the Amazon region and especially in Block 43, from which thousands of barrels of oil are being obtained. For this reason, the Yasunidos collective has presented to the Constitutional Court of Ecuador a petition for a popular consultation to prevent Block 43 from being exploited, its reasons are that it is one of the areas with the greatest biodiversity and territory of the people in voluntary isolation that they would be in danger (Castro, 2021). On the other hand, three European banks reported that they would end their financing of the oil trade from the Ecuadorian Amazon, arguing that the State should generate changes in its oil policy in order not to cause irreparable damage (El

Univervo, 2021). However, none of this has been a reason for different international and national oil companies to continue operating in the country through the support of the State, which defends the expansion of the oil industry because the activity promotes the development and economic growth of the country (El Oriente, 2019).

In conclusion, even though oil exploration in the Ecuadorian Amazon began in 1921, the oil boom in the area occurred in the 1950s. On the other hand, for many years the State gave the concession to foreign companies for the exploitation of crude oil in the East, and these companies received a greater profit than the country, even so the oil since the years 70s became the basis of the Ecuadorian economy and one of the reasons was the discovery of large deposits in different areas of the Amazon. Also, variations in the price of crude oil caused economic damage to the State, and it was seeking a way out by exploiting more oil areas, including protected areas such as the Yasuní National Park. The power that the oil companies obtained in the region was considered that they even appropriated territories and the indigenous communities of the areas depended on them. Years later, the public company Petroecuador establishes a subsidiary in the Amazon named PetroAmazonas, which until now oversees the exploration and exploitation of oil fields in the East. On the other hand, different social organizations have tried over the years to protect the Amazon since it encompasses immense biodiversity and different indigenous communities including Taromenane – Tageri peoples in voluntary isolation. However, until now, only through popular consultation could the intangible zone have been extended, and despite this, areas such as Block 43 in Yasuní Park are currently being exploited, and it considers them a great economic source. History has shown that hydrocarbon companies have caused irreparable damage to the environment and indigenous nationalities, however, oil activities continue to advance and not even the pandemic has been able to stop them.

### **3.1 The Yasuní ITT**

The Yasuní National Park is in the eastern region of Ecuador, specifically in the provinces of Orellana, Pastaza, and Napo; it has an area of 1.022.736 hectares. The Napo River flows through the north side of the park and the Curaray River on the south side, in turn, these rivers are formed by the Cononaco, Nashiño, Tigüino, Tivacuno, Yasuní and Tiputini flows that flow into the Amazon River; to the east, the park is delimited by the border with Peru (Ministry of the Environment, 2015). The United Nations Educational, Scientific and Cultural Organization (UNESCO) since 1976 have been granting the title of "Biosphere Reserves" to important regions for their ecosystems and landscapes (Ministry of Tourism, 2011). On the other hand, the territory of the Yasuní National Park is the place with the greatest biodiversity in the world for every, sheltering in its Amazonian tropical humid forest: 4.000 species of vascular plants, 100.000 species of insects, 270 species of fish, 150 species of

amphibians, 121 species of reptiles, 204 species of mammals and 610 species of birds, per hectare (Tables, 2018). In addition, you can find hundreds of species of trees and wide rivers of black and white water. Likewise, it is home to the Waorani, Shuar, Kichwa nationalities and the Tagaeri - Taromenane peoples in isolation (Ministry of the Environment, 2015). It is said that this region is megadiverse since its geographical location is located on two axes, the equatorial line and the connection between the Andes and the Amazon, in which the hot and humid climate meet, and there is seldom a cold season or *Seca* (Tables, 2018). Finally, the area has different environments: the central and western zone has wide plains with small hills surrounded by small streams and medium rivers; the hills are not covered with water, so a solid land forest was created on them; and in the area where the Yasuní and Tiputini rivers flow, the soil is not very permeable, which is why swamps are formed where more palms abound (Ministry of the Environment and Water, 2015). Given these reasons, in 1979 UNESCO together with the Ecuadorian State through ministerial agreement No. 332 established the Yasuní National Park (PNY), becoming the largest protected area in Ecuador, arguing that it was necessary to protect the immense biological wealth and cultural area.

Years later, in 1989, the Yasuní National Park was named: Biosphere Reserve through the UNESCO “Man and the Biosphere” program. This condition of Biosphere Reserve is granted to protected natural areas in which the zoning of human existence, use of resources and economic activities guarantee a harmonious coexistence between nature and human beings, having as a common goal the local sustainable development and ecological, social, and cultural conservation (IUCN, 2009). At the time of receiving the category, the State had to fulfil three conditions: conservation function, to protect genetic resources, species, ecosystems, and landscapes; function of stimulating economic and human development; and a logistical support function, to support environmental education and development research projects (UNESCO, 1995). The PNY is made up of the Yasuní Biosphere and the Waorani Ethnic Reserve, which together represent great biological, cultural, and economic value (IUCN SUR; CEC; IUCN, 2010). On the other hand, the indigenous communities that live within the reserve have a population of approximately 19.900 people according to the 2010 census, and between 200 to 300 indigenous people in isolation. These peoples have planted coffee, corn, plantain, cocoa, rice, bananas, and cassava in PNY, which are used for sale and self-consumption. The indigenous inhabitants of the Yasuní also work in the different forms of tourism or in the oil companies that work in the area (UNESCO, 2019).

Later in 1999, the then President Jamil Mahuad declared the southern region of the park as an Intangible Zone (ZI) through a presidential decree No. 552; This would mean that in 700.000 hectares corresponding to the nucleus of the PNY and a sector of the Tagaeri – Taromenane territory, extractive operations would be prohibited. The decree stated that "these are protected areas of great cultural and biological importance in which no type of extractive activity should be practiced due to

their high value for the Amazon, Ecuador, the world, and present and future generations" (World Rainforest Movement, 2013). The main reason for the creation of the ZI was to protect the territorial rights of the Indigenous Peoples in isolation, for which reason the decree indicates that a process of limitation of the Tagaeri Taromenane Intangible Zone (ZITT) must be carried out and should be carried out within a period of 120 days. However, the delimitation of the ZITT did not occur until 2007 when the then- president Alfredo Palacio, through an executive decree, ordered to limit the territory to 758.051 hectares that they comprised the parishes of Cononaco and Nuevo Rocafuerte (Aguarico – Orellana canton), and the Curaray parish of Pastaza canton (De Marchi, Pappalardo, & Ferrarese, 2013); in the same way I constitute a Buffer Zone of 400.000 hectares that divides the Yasuní National Park from the Intangible Zone, it is assumed that the function of this zone was to limit the type of activities that can be developed so that they do not affect the PIAV (Añazco Aguilar, 2019, p. 16) (GK, 2019). Something to emphasize is that the establishment of the Intangible Zone led to a possibility of extractives intervention in the rest of the Yasuní Park, an example of this is that the Intangible Zone limited in its cardinal points with oil blocks that settled in the Buffer Zone, and its delimitation does not respond to the territory exercised intermittently by the peoples in isolation (World Movement for Tropical Forests, 2013).

Although the Yasuní National Park is a protected area within it oil extraction is allowed, there is approximately 18.3% of the country's proven oil reserves (UNESCO, 2019), and oil blocks 31 – 43 are being exploited regardless of whether they exceed the ZITT (Paz Cardona, New study shows that the oil industry would have deforested more than allowed in the Yasuní Park, 2019). For reasons like these in 2018, President Lenin Moreno called for a popular consultation; to manage changes at the economic, political, judicial, and environmental levels; And one of the questions was, "Do you agree to increase the intangible zone by at least 50.000 hectares and reduce the area of oil exploitation in the Yasuní National Park from 1030 to 300 hectares? (Aguilar, 2018), the Ecuadorian citizens agree with this and the answer won with 67.31% (Paz Cardona, Ecuador: controversy grows for oil activity in intangible zone of the Yasuní National Park, 2019). In this sense, one year and eight months after the Popular Consultation, in May 2019, the Government presents Executive Decree No. 751 which determines the new coordinates of the Intangible Zone in which 59.000 hectares are added to this territory. It is also established that in the BA it will be forbidden to build roads, hydroelectric plants, and oil facilities, but the construction of platforms to drill oil wells and exploit them will be allowed. Consequently, the State demanded that to minimize the damage that these oil activities could cause to the peoples that inhabit the ZI, the Ministry of Environment and Energy together with the Secretary of Human Rights and Policy Management should develop techniques and procedures for their protection (Pacheco, 180 days to prepare the new map of the intangible zone of Yasuní, 2019). It should be noted that the consultation had no effect on the modification of the exploitation of Blocks 31 and 43 (Añazco Aguilar, 2019, p. 78).

However, there are many criticisms about Executive Decree No. 751 resulting from the 2018 Popular Consultation on how the Yasuní National Park really divides its parts into protected areas, Buffer Zone, and Intangible Zone, and what extractives activities can be carried out in them (Figure 3) (Figure 4). For human rights defender Verónica Potes, the demarcation of the ZI is not really where the peoples are in isolation but rather where the State believes that they are their ancestral lands; it further argues that what was achieved with the popular consultation it was that the ZI was expanded, but the BA became a territory open to oil platforms (GK, 2019). Another reflection on the part of Paola Maldonado, president of the Aldea Organization, was that the extension of the ZI was made over the Waorani territory without considering that the real threats to the people in voluntary isolation come from areas such as buffering because they are areas that lost their status as intangible and there is no evidence that there is a presence of villages in isolation (GK, 2019).

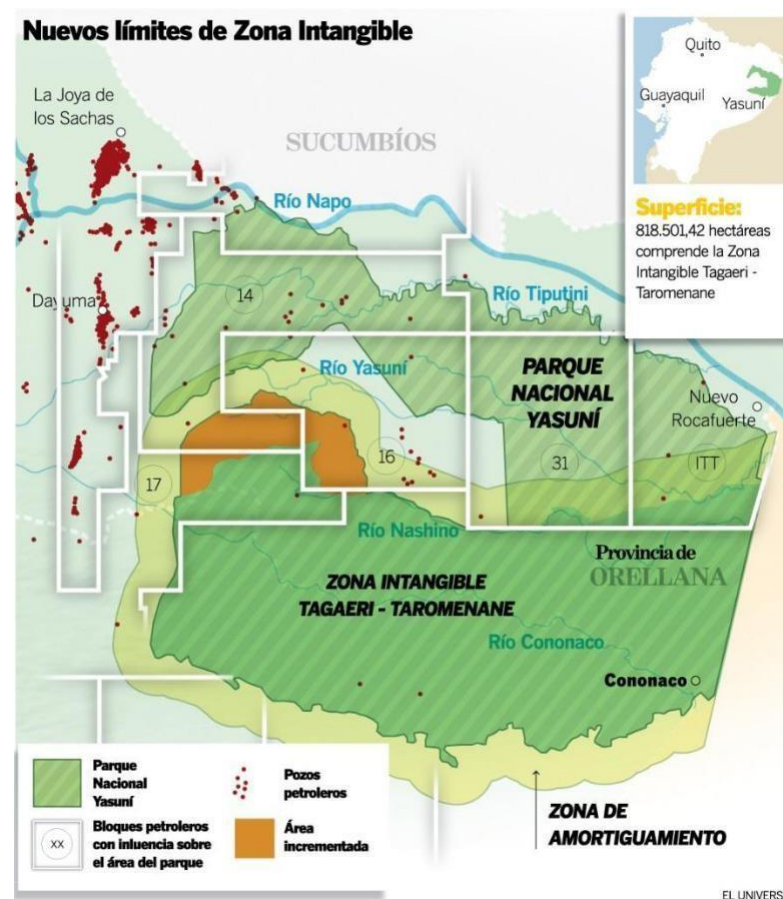


FIGURE 3

Source: (The Universe, 2019)

Finally, since 2017 the public company PetroAmazonas has established oil platforms in the

Buffer Zone that help the extraction of crude oil from Block 43 and 31, there was also a 3D seismic exploitation for Block 43 that affected the territory of the BA and its proximity to the ZI (Bayón, 2017). Likewise, Carlos Mazaba of the Amazon Watch Organization says that, within the BA, there are oil blocks that are being exploited and one of those is Block 31 (Paz Cardona, Ecuador: controversy grows over oil activity in the intangible zone of the Yasuní National Park, 2019). Similarly, a study by the Monitoring the Andean Amazon showed that 400 hectares of forests have been deforested in the Yasuní National Park for the development of oil activities (Paz Cardona, New study shows that the oil industry would have deforested more than allowed in the Yasuní Park, 2019). Within the Yasuní National Park there are 8 oil blocks, and all are in the extraction phase.

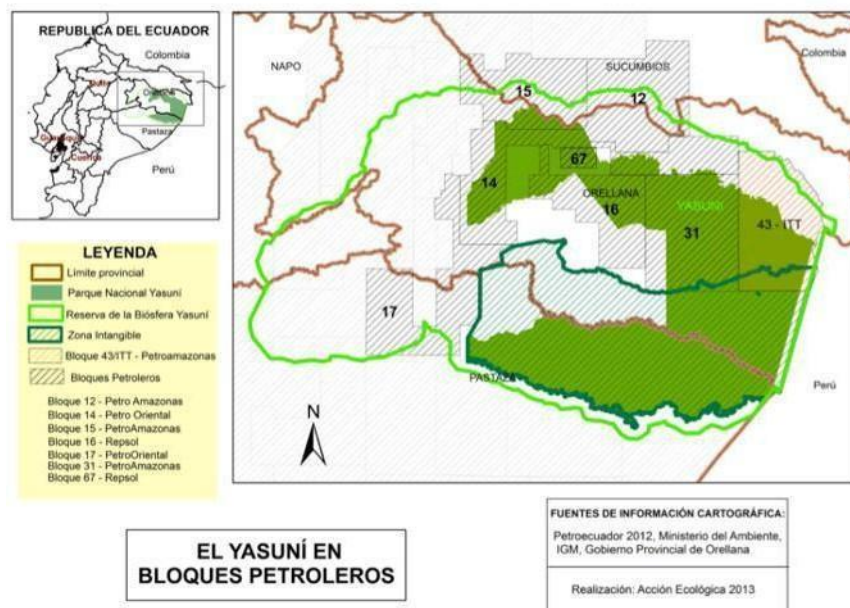


FIGURE 4

Source: (Ecological Action, 2013) - The image shows the oil blocks found in the Yasuní National Park, among which you can find blocks 14, 16, 31 and 67.

In conclusion, the Yasuní National Park is a megadiverse territory that encompasses different species of animals and plants as different indigenous nationalities that include peoples in isolation; although it is also an area that covers under its soil thousands of barrels of oil that are of great economic interest to the country. It has been evident that the Ecuadorian State under pressure from civil society and environmental organizations in one way or another has tried to protect this area of extremely high value. For that reason it was created the Intangible Zone in which no extractives activity could be developed to protect the lives of people in isolation. However, it has been left at a disadvantage to the rest of the territory of the park since in those places if extraction activities are allowed, and in consequence different species of living beings have been lost. What the government has tried to do with the PNY is contradictory because from the same place that offers so much life, it

wants to extract crude oil to continue with the development of the rest of the country.

### **3.2 The Constitution of Ecuador and the exploitation of non-renewable resources**

In 2006 Rafael Correa Delgado won the presidency in the second round and one of his novel campaign proposals was to change the country's Constitution (Andrade, 2012); in 2007, already sworn in as president, he issued decree 002 with which he called for a popular consultation to elect the people who would be part of the Constituent Assembly (Supreme Electoral Tribunal, 2007). Once the Assembly was constituted, its job was to draft a new Constitution, which then had to be approved by the Ecuadorian population. Thus, in July 2008, the Constituent Assembly presented the Draft Constitution accepted by most legislators (The Carter Center, 2008). Consequently, in September 2008, the Supreme Electoral Tribunal held a referendum in which the Ecuadorian population had to approve or reject this new Constitution; the yes wins with 64% and in October of the same year the Magna Carta enters into force (Paz and Miño Cepeda, 2008).

The 2008 Constitution proposed a change and a breakthrough in individual, social, economic, labor, and collective rights; it also introduced the principles of Good Living (Buen Vivir) and enshrined rights to nature, water, food sovereignty, and minority groups such as peoples in isolation. Similarly, what former President Correa proposed to contribute through this new Constitution was a new model of economy in which the State had a leading role, as well as guaranteeing for Ecuador the strategic sectors such as: energy, telecommunications, non-renewable natural resources, transport, refining of hydrocarbons, biodiversity, genetic heritage, water, and others (Paz and Miño Cepeda, 2008).

Leaving aside the Constitution, it is necessary to describe what non-renewable resources are and which of them exist in Ecuador. Non-renewable resources are natural resources that cannot be produced, cultivated, regenerated, or reused. Likewise, these non-renewable resources do not exist in large quantities, but they are consumed on a large scale and quickly by society so they could disappear (MINTIC&MINEDUCACIÓN). Some non-renewable resources can be metals, minerals, oil, natural gas, gasoline, or diesel, and even confined aquifers without groundwater recharge (Meanings, 2016). Ecuador is a country that encompasses some of the considerable non-renewable resources in the region, as has been evident it is a large oil extractor; minerals such as gold, silver, copper; and has significant gas reserves, it has also been developed in the chemical and gas industry (López - Ribadeneira, 2018). In addition, this is a million-dollar industry which leaves significant foreign exchange for the country; an example of this is the oil industry, called the basis of the Ecuadorian economy as it is the most exported product. For this reason, the State pronounces on this industry both in the Constitution and in its internal regulations. The following table shows what the



Constitution of Ecuador 2008 states about non-renewable resources and their extraction:

**TABLE 2 - Non-Renewable Natural Resources in the Constitution of Ecuador 2008**

NON-RENEWABLE RESOURCES IN THE CONSTITUTION OF ECUADOR 2008		
Title	Chapter	Article
Title I Constitutive Elements of the State	First Chapter  Fundamental Principles	Article 1. - "The non-renewable natural resources that exist in the territory belong to the inalienable, indisputable and imprescriptible patrimony of the State" (Constitution of Ecuador, art.1, 2008).
Title II  Rights	Chapter Four  Rights of communities, peoples and nationalities	Article 57 – numeral 7. - “The State must carry out a prior, free and informed consultation with these peoples when there are plans and programs for the exploitation and commercialization of non-renewable resources that are on their lands, and that may affect them in any way” (Constitución del Ecuador, art.57, 2008).
	Chapter Seven  Rights of Nature	Article 72.- “In cases of serious or permanent environmental impact, including those caused by the exploitation of non-renewable natural resources, the State will establish the most effective mechanisms to achieve restoration, and will adopt the appropriate measures to eliminate or mitigate harmful environmental consequences” (Constitución del Ecuador, art.72, 2008).
Title V  Territorial organization of the State	Chapter Three  Decentralized autonomous governments and special regimes	Article 274. - “The decentralized autonomous governments in which non-renewable resource exploitation or industrialization activity is carried out, will have the right to receive profits received by the State for these projects” (Constitución del Ecuador, art.274, 2008).
Title VI  Development	Chapter Five  Strategic sectors,	Article 313. - “The State is in charge of managing the strategic sector, supported by the principles of environmental sustainability, precaution, prevention and efficiency; and



Incidentally, in accordance with the National Development Plan, the State must give priority to intergenerational responsibility, nature conservation, the collection of royalties and others non-tax and business participation contributions; as well as minimizing the negative impacts to the environment, culture, society, and the economy, which the extraction of non-renewable natural resources can cause (CNC, 2017). On Section 407 whereas it is a controversial regulation related to the extractive activity of non-renewable resources in protected and intangible territories; at the time of carrying out the popular consultation would be a topic of debate since the exploitation of non-renewable resources helps the development of society but also causes environmental and social impacts of great magnitude (Guambuguete, 2016). In the end, if through consultation it is decided that the extraction of the non-renewable resource, in this case oil, is desirable, the protection of protected areas and intangible areas would be invalidated.

In conclusion, the Constitution of Ecuador 2008 being the supreme norm of the State proposed a model of development based on Good Living (Buen Vivir) through which the rights of nature and environment, the rights of communities, peoples and nationalities, and the principles on natural resources emerged. In addition, the internal regulations on non-renewable resources have been amended from time to time since 2008, since domestic policies had to be based on what the Constitution states, since first it is the most important rule and second so that there are no contradictions between the Constitution and organic laws, ordinary laws, regional rules, decrees and regulations, ordinances and, agreements and resolutions. However, even though the State through the Constitution has proposed a new model of development that is friendly to the environment and indigenous peoples the articles that have been presented in this section demonstrate that the Constitution establishes that in one way or another non-renewable resources, in this case oil, must be extracted because they are the star export product and therefore the basis of the Ecuadorian economy. On the other hand, the Magna Carta is used by the Government as an instrument that supports the Ecuadorian State to be the only one that can manipulate the extractive activity of non-renewable resources at its convenience. This can be evidenced in articles 57 and 407, which, on the one hand, propose the protection of protected areas, intangible zones and indigenous peoples living in oil territories, and at the same time allow the State to carry out extractive projects in these territories if it states that it is necessary. In other words, the Constitution of Ecuador makes it clear that the extraction of non-renewable resources, which produces immediate economic gains for the country, is above the protection of the environment and vulnerable populations, such as the indigenous communities that live in extractives zones; and it also neglects the harmony that must exist between humans and nature, which is promulgated in the National Development Plan (Olovacha Puma, 2017).

### **3.3 National regulations concerning the exploitation of non-renewable natural resources**

The wealth of natural resources that Ecuador possesses has made its State have to choose which to prioritize, whether to protect the environment for current and future generations populations or exploit these resources to provide for the national economy (Zambrano, Goyas, & Serrano, 2018). On the one hand, the 2008 Constitution establishes that the rights to nature and indigenous nationalities, which as has already been mentioned are related, are given priority (Ávila Santamaría, 2011). From another perspective, it is argued that the Constitution seeks to maintain a balance in the regulations for the development of extractives projects for non-renewable resources, without these affecting the rights of nature or of indigenous peoples and nationalities.

Given this, the State saw the need to create a regulatory body named the Ministry of Non-Renewable Energies and Natural Resources. It was created in 2018 when the Government decided to merge the Ministry of Electricity and Renewable Resources, the Ministry of Mining, and the Secretariat of Hydrocarbons. This new entity focuses on operating the oil, gas and electric energy sector, its goals being to increase the efficiency and productivity of the country's energy and mineral resources; and supply quality electricity (bnamericas, 2019). The Ministry has stated that its mission is "to promote the development and sustainable use of energy and mining resources, with social and environmental responsibility, through the formulation, execution, monitoring and evaluation of public policies, applying in their management principles of efficiency, transparency and integrity" (MERNNR). The national public policies proposed by these entities or other levels of Government to carry out projects or resolutions of problems in the non-renewable natural resources are as follows:

#### **Hydrocarbons Law**

This law was created in 1978 and its last reform took place in May 2018. This regulation covers matters relating to the search, exploration, exploitation, refining, industrialization, storage, transport and marketing of oil tankers and their derivatives within the scope of their competence (Hydrocarbons Law, 2011). In addition, this regulation argues again that the deposits of hydrocarbons and their derivatives in any physical state that are in Ecuadorian territory, belong to the inalienable heritage of the State, so that it can explore and exploit through the public company Petroecuador. This company, for its part, may enter contracts for the association or participation of service services for oil activities (FAO, 2021). On the other hand, the Hydrocarbons Law states that before the start of an oil exploration or extraction plan or project that is to be developed on lands that the Government has assigned to indigenous communities or peoples of African descent, and that could damage the

environment; Petroecuador, its subsidiaries, contractors or associates must first consult with the peoples or communities. Likewise, it states that once the stages of exploration or exploitation of crude oil in areas where these communities live are completed, they will be able to benefit from the infrastructure built by Petroecuador (Hydrocarbons Law, 2018).

### **Environmental Regulations for Hydrocarbon Operations in Ecuador**

This Regulation aims to regulate hydrocarbon operations in Ecuador and other technical and operational activities (Environmental Regulation of Hydrocarbon Operations, art.1, 2020). In addition, this regulation must be applied by natural or legal persons, public or private, national, or foreign, joint ventures or consortia, associations or other contractual forms recognized by the Ecuadorian State, that carry out hydrocarbon activities in the national territory (Environmental Regulation of Hydrocarbon Operations, article 2, 2020). On the other hand, the Environmental Regulations on Hydrocarbon Operations considered the articles of the Constitution that reflect the rights of indigenous peoples and nationalities, for the creation of its articles; this can be seen in Chapter IV of the Regulation, which deals with community participation for environmental management by hydrocarbon operations (Environmental Regulation of Hydrocarbon Operations, 2020).

### **Mining Law**

The Mining Law is the regulation for the exercise of the sovereign rights of the State to administer, regulate, control, and manage the mining sector, based on the precepts of sustainability, precaution, prevention and efficiency. In this case, the State is responsible for delegating mining concessions to joint ventures in which it holds a majority shareholding or to the private sector and the popular and solidarity economy, for the search, exploration, exploitation, profit, smelting, and refining, internal and external marketing of mineral substances (Mining Law, article 1, 2009). This is how this regulation regulates the relations of the State with mining joint ventures, with national, foreign, public, mixed and private natural or legal persons, as well as the relations between these companies. The regulation is about obtaining, conserving, and extinguishing mining rights and carrying out mining activities (Mining Law, art. 2, 2009).

However, the Law has important points about the communities that inhabit the extraction territories. First, mining activities can stop at the time that the protection of the health and life of the mining workers or of the communities settled in the area that is carried out mining activity is required, according to the Civil Defense or, if the breach of the Environmental License is verified (Mining Law,

art. 58, 2009). Second, from the moment a company is granted the mining concession, it must report during all the stages to authorities, Decentralized Autonomous Governments, communities and social, environmental or trade union entities, if there is any possible negative or positive impact of mining activity (Mining Law, art. 88, 2009).

### **Environmental Regulation of Mining Activities**

This mandate regulates in the national territory the environmental management of mining activities in their phases of exploration, exploitation, profit, processing, smelting, refining, and of the partial and total closures of mining works (Environmental Regulation of Mining Activities, art. 1, 2019). The primary objective of the Regulation is to promote the sustainable development of mining activities in the country through the implementation of rules, procedures, processes, and sub-processes to prevent, control, mitigate, rehabilitate, remedy, and compensate the consequences that these mining projects can have on society and the environment in Ecuador (Environmental Regulation of Mining Activities, art. 2, 2019).

As for the communities where the mining activity takes place, he says that the holder of the mining concession must have a Community Relations Plan that aims to reduce, mitigate, and compensate for the possible socio-environmental damages that the projects cause (Environmental Regulation of Mining Activities, art. 71, 2019). In addition, the Regulations state about Integral Repair and Restoration; the first deals with the different actions, processes and measures that are fully applied to reverse environmental damage through the restoration of the quality, dynamics, ecological balance, life cycles, structures, functioning and evolutionary process of the affected ecosystems; and measures that allow the reinstatement of the rights of the affected persons or communities through compensation and compensation, rehabilitation of those affected, measures and actions that ensure the non-repetition of the facts. And the second is a right of nature that determines that when there is a harmful environmental impact on the part of these mining activities, the affected area must return to the conditions dictated by the Environmental Authority that guarantees the repair of balances, cycles, and natural functions. It also includes the return to a quality of life worthy of a person, group of people, communities and peoples who could be affected by the negative environmental impact of mining activities (Environmental Regulation of Mining Activities, 2019).

In summary, in Ecuador there are national regulations on the exploitation of non-renewable natural resources in hydrocarbons and mining; and the laws, rules and regulations described are those used by Ecuador's extractives sector. As for the hydrocarbon sector, it has the Ministry of Non-Renewable Energies and Natural Resources and the Hydrocarbons Law and the Environmental

Regulations on Hydrocarbon Operations; in addition, oil activities and their derivatives oversee the Petroecuador Public Company. On the other hand, the mining sector is regulated by the Ministry of Mining, by the Mining Law and by the Regulations Environmental Mining Activities: in this case, mining activities are regulated by the State. Finally, in the regulations described it can be found how to carry out the activities of extraction of non-renewable natural resources, and to a lesser extent how public or private entities must respect the rights of nature or communities that inhabit the areas; rather, they determine how to repair the damage caused after mining and oil exploitation, and not how to prevent these damages.

### **3.4 The consequences of oil exploitation for Amazonian indigenous peoples and nationalities**

Since the 40s and 50s oil exploitation had its beginning in the Amazon area of Ecuador, the companies that operated at that time did not have adequate control over the operations they were carrying out. For this reason, in the areas of crude oil extraction, the environmental and social consequences were presented from the exploration phase to the transportation phase (Salvaterra, 2018); of these mistakes of the past there are still consequences in the present, and although the hydrocarbon industry today must comply with national policies for extraction with less impact, the damage that these companies cause is greater. That is, oil activity is one of the industries that globally cause greater negative impacts to the environment, for example: the burning of fuels by these companies is considered the main cause of global warming. On the other hand, the Amazon is a significant region for the stability of the global climate, biodiversity, and the survival of ancestral communities; however, the oil industry perceives this place as a frontier to expand its business (Bravo, 2007). Given this background, the different consequences that oil exploitation in the Ecuadorian Amazon has brought to the indigenous peoples of the areas will be made known.

The Environmental Organization Amazon Frontlines on its page discloses the ecological consequences of the oil boom in the Ecuadorian Amazon; one of the most serious consequences is that this is one of the areas with the highest deforestation in the entire Amazon. That is, between the years 1990 – 2015 475,000 hectares of primary Amazon rainforest were deforested and 68% of Ecuador's Amazonian territory is covered by oil blocks. In addition, the main oil pipelines from the east to the Pacific Ocean are in uneven terrain with seismic faults, which means a high risk of oil spillage; and between 2005 – 2015, 1,169 oil spills were reported, of which 81% occurred in the Amazon (Amazon Frontlines, 2021).

The Waorani nationality is settled in the Yasuní, which is an ancestral territory. Community

members report that the elderly lived in a healthy, free and institute environment pollution, with the best food and life because this part of the jungle was pure nature. They consider that in the 40s when the evangelical missionaries arrived their life was difficult, since they gathered all the indigenous people in a single area, which caused these communities to locate three existing administrative provinces of the State. In this way, the missionaries helped to make free territories that were occupied by the oil companies. They relate that when this happened, part of the community fled to other areas, and that when they returned to their territory, they encountered roads and oil companies so they could not stay where they considered their home. In addition, they say that the existence of oil companies near their communities has caused young people to become settlers, change their mentality, and prefer to gather for alcohol than go hunting. Furthermore, the Waorani nationality feels that the introduction of these companies in their area will not be able to leave their children large and healthy territories. They say that the state always stresses to them that, if the oil companies are allowed to work in these territories, they will be able to offer them education and health. The community does not agree with this, they argue that oil kills, does not give them freedom, turns them into slaves and causes them disease. They have shown how the nationalities Cofán, Siona and Siekipai have been destroyed by the oil company *Chevron – Texaco*<sup>2</sup>, and do not want to suffer the same. Finally, community spokesmen say that their people regard their territory as part of them, their history, and their language; if the territory is destroyed by the oil companies the essence of the Wao people will disappear (Nenquimo & Espinosa, 2021).

In the initial phases of search and exploration for oil activity in the Amazon, companies build narrow roads, and wide and long roads. For each kilometer of construction of these roads, half a hectare of jungle is cleared, in order that there is space for the helicopters of the companies to leave explosive material that will later be used for the seismic, this phase consists of exploiting part of the land to locate the oil wells. The explosives are usually placed in areas close to indigenous communities, so they cause damage to the homes of the peoples, even in the Sarayaku territory these explosives were never removed even though the community won the lawsuit against the Ecuadorian State. In this first phase it also happens that people who work for these companies as workers and

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2 The oil company Texaco operated in Ecuador from 1964 to 1990, after which the company was acquired by Chevron in 2001. This company extracted, in those years and subsequent years, millions of barrels of crude oil without using the technological methods of minimum impact agreed in exploitation contracts for the preservation of nature. This caused irreparable environmental disasters and damage to the inhabitants of the Siona, Secoya, Cofán, Kiwcha and Waorani indigenous communities. For example, the Ecuadorian government says that "during the years that Texaco worked in Ecuador, it drilled and operated 356 oil wells and opened at least 1,000 pools in the jungle, some clandestinely, where waste of all kinds, such as crude oil, water, and toxic sludge, was dumped. The polluting content of certain pools was set on fire next to the vegetation 200 meters around. In the process, in addition to the polluting gases released into the atmosphere, the waters and lands, the environment and any living being in the vicinity were contaminated" (Ministry of Foreign Affairs and Human Mobility, 2015). Despite this, and after different lawsuits of the communities against the company, Texaco / Chevron have refused to take charge of the damages produced that so far affect the Amazon of Ecuador.



engineers, enter inhabited land or near villages, without advance notice, to start immediately with the oil activities. These personnel appropriate land, perform seismic activities, fence the land with wires, and build ditches; this causes dissatisfaction among the peoples since they often obstruct the viability of the indigenous people. In addition, the entry of people from abroad to these territories causes fear in the indigenous people because they allege that they bring diseases that are unknown and can be deadly for them (Salvaterra, 2018). In the same way, since the great pollution caused by Chevron – Texaco there were some scientific studies that showed that oil companies produce millions of gallons of toxic wastewater containing heavy metals and carcinogens (Collyns, 2019), this together with the oil spills caused by the oil companies, have damaged kilometers of land and therefore destroyed the biodiversity of the areas; it has also affected rivers, water sources, farmland and there has been a noticeable decrease in animal species that are food sources for indigenous peoples, so that the quality of life of the communities has been harmed (Salvaterra, 2018). An example of this can be found in the village Siona de Aboquehuira, a community that was located near the Aguarico River, they relate that before the river was their source of life, but because of the oil spills it is now a source of pollution and diseases; for this reason, the community decided to live far from the river. However, communities living downstream of oil drilling still suffer these consequences. Such is the case of Emergilio Criollo, indigenous Cofán, he says that when his wife was pregnant, he took water from the Aguarico River without knowing that it was contaminated, when his son was born, he had problems growing normally and six months later he died (Collyns, 2019). Likewise, in 2003 the Ibero – American Society of Scientific Information carried out research on the environmental conditions and the state of health of the inhabitants who lived in communities near wells and oil stations in the Ecuadorian Amazon. The study yielded information such as: that pollution levels in the rivers of these areas were high by the limit accepted for human use according to the European Union; whereas these indigenous communities were exposed to high levels of chemical concentration as a result of oil flowing into rivers; the consumption of this water from the river brought greater consequences to the women of the communities since they presented symptoms such as irritation of the eyes, nose, sore throats, headaches, skin irritation, gastritis, diarrhea and tiredness, they were also prone to sudden abortions compared to women who lived in non-oil areas (San Sebastián , 2003); and finally, the research showed that in these communities surrounded by oil wells, the rate of cancer in their population was higher than that of eastern cantons that do not inhabit areas of hydrocarbon activity, and the types of cancer that occurred were stomach, rectum, melanoma, connective tissue, kidney, cervix , lymph nodes, and in children under 10 years leukemia (Hurtig & San Sebastian, 2002).

On the other hand, in 2014 World View took satellite images in the Yasuní in which it could be seen that roads had been built to enter block 31, it was also observed how heavy trucks entered and left and the construction of bridges between the banks of the rivers (Finer, 2015). In 2020 during the Coronavirus pandemic, satellite monitors by the MAAP project located the opening of a wide road

leading to block 43 ITT and the construction of new platforms in the same place, by the public company Petro Amazonas. I also locate a lighter in the Tiputini area, even though they are harmful to air quality (Finer & Mamani, 2020) (Facchinelli, 2020); it should be emphasized that these oil activities are being carried out near the Tagaeri – Taromenane Intangible Zone and where the existence of huts and houses of these villages in isolation has been verified. One point that Pedro Bermeo, part of the Yasuní collective, emphasizes, is that it must be considered that in times of pandemic social distancing and quarantine are the best methods to prevent the transmission of the Coronavirus. The fact that oil activity is being carried out in Block 43 ITT allows for the movement and agglomeration of people from outside, which can cause contagion to nearby indigenous communities; and if it is possible to give a single contagion in a town in isolation, it can imply its extermination (Bermeo, 2020).

At the same time, the seismic exploration that occurs in the Amazon through detonations produces waves that end aquatic and underground life, also cause a strong impact by noise; as a result, it ends with fish and scares away game mammals that are a food source for indigenous communities (Bayón & Yepez, La disputa sobre qué es una hectárea de explotación petrolera en el Yasuní, 2020). In addition, the noises of the power generators, which are used by the oil companies, are of such magnitude that they can be heard 10 km away (Bermeo, 2021). This has caused great discomfort in communities surrounded by oil wells, because the Amazonian indigenous people have a deep relationship with the sound of the jungle; and relies heavily on the soundscape to survive (Moscoso, 2018). That is, the relationship between sounds and the community is expressed in their daily activities, their cultural memory, their sense of place and identity, and their connection with the forest, its inhabitants, nearby villages, and ancestors, as well as helping their ancestral memory and their inner peace. These changes in the soundscape of the Amazon brings consequences such as: loss in the sense of identity, which in the case of the Waorani community would represent a disappearance of the people (Moscoso, 2020); and the effects of high noises affect the health of indigenous people in terms of their sense of hearing, cardiovascular system, pressure, emotional state, quality of sleep and decreased cognitive ability (Axelsson, Lam, Passchier-Vermeer, & etc, 2010).

Finally, the IACHR's 2013 report on indigenous peoples in voluntary isolation and initial contact in the Americas discloses several consequences that oil extractives bring to these peoples, based on various events in Ecuador, Bolivia, Brazil, Peru, and Paraguay. First, cases of initial contact can cause an irremediable cultural loss since they would find a new world that they will somehow want to know, leave isolation and therefore acculturation (IACHR, 2013). An effect that is considered serious of a possible contact is, the psychological affectations that could have by the different worldview and way of life of the people who live in contact, even the IACHR gives an example that in 1960 the people in isolation Akiruyo were contacted in Suriname and several of its members

suffered depression and even some women stopped menstruating more than a year due to stress (IWGIA & Kloss, 2013). Likewise, there may be indirect contact that occurs when people from abroad who pass through the territory of peoples in isolation leave objects that can later be found by these indigenous people, these elements can mean a risk of transmission of certain diseases (Huertas Castillo, 2012). Second, the IACHR emphasizes that the notion of territory for these peoples is given by natural limits created by them and not by milestones established by the State (IACHR, 2013); that is, if the Government and the oil companies place them in a certain area of oil activity in areas close to their communities, it will not be of importance to the indigenous people in isolation, because they will continue to travel through the areas that are part of their territory. Consequently, if they travel through the areas they are used to and encounter oil workers, timber workers, rafters, or other communities, they will continue to attack others because in their perception they will be defending their territory.

In conclusion, different studies, organizations, reports and statements of those affected have shown how oil extractives affects in various ways the lives of the indigenous communities that surround the oil wells. It has also been evident that not only the oil spill or the chemicals they produce bring serious consequences, but the conditions occur from the first phase of exploration because opening roads, introducing people from outside and building buildings also causes discomfort in the daily way of their lives. On the other hand, all oil activity affects either directly or indirectly the peoples in isolation and the most serious thing is that if they come to have a minimum contact with people from outside it would mean their cultural disappearance.

## **Conclusion**

Ecuadorian Amazon is megadiverse and is home to hundreds of animal species, plants and about 15 indigenous communities, including peoples in isolation. In addition, it is an area that in its subsoil is rich in oil and minerals, which is why it has become the economic background of the country.

Oil exploitation in Ecuador began approximately in 1911 when a large well named "Ancón 1" was drilled with foreign technology on the Santa Elena peninsula. Given the development of the oil industry in the country the State saw the need to issue the first Law on Hydrocarbon Deposits and in 1933 to create the General Directorate of Mines and Petroleum. Years later, foreign hydrocarbon companies gain prominence in the national industry because the government gave them several concessions on the coast and east. In this way between the years 1972 – 1981 there is the oil boom in the country, which also led him to join OPEC in 1973, but 20 years later he retired from the organization for nationalist policies. Since Ecuador did not receive sufficient profits from crude oil in

2006, the State reformed the Hydrocarbons Law to make it the country that receives the largest remittances for the exploitation of oil in its territory. For this reason, the country rejoins OPEC in 2007 to receive economic and technical benefits; however, in the year 2020 the State leaves the Organization claiming that it has internal issues and challenges related to fiscal sustainability that the country must assume.

On the other hand, in the Amazon the oil exploitation began in the 50s and since then the exploitation became the majority in this area, so it was called a source of gold. Despite this, the State encountered several obstacles since this region hosts a biodiversity recognized worldwide and is an area where peoples who are cultural heritage of humanity live. Given these reasons, in 1976 UNESCO declared a part of the Amazon called Yasuní as a Biosphere Reserve because it is a territory of important nature, history and culture worldwide. In 1979 UNESCO and the Ecuadorian State established the Yasuní National Park becoming the largest protected area in the country. And in 1999 the Intangible Zone was created within the Yasuní National Park where any type of extraction of non-renewable and renewable natural resources is prohibited, since it is an area of biological, cultural importance and above all where people live in isolation. However, the Yasuní is home to 18.3% of the country's proven oil reserves, and the oil frontier is currently stretching.

Given the importance of the oil industry in Ecuador, the 2008 Constitution covers different points on the exploitation of non-renewable natural resources, and the most important article is the one that states that these resources found in the national territory are inalienable, inalienable, and imprescriptible heritage of the State. Also, an article of utmost importance is article 407, which prohibits the development of extractive activity of non-renewable resources or forest exploitation in protected territories and areas declared as intangible. However, if the Presidency of the Republic, with a prior declaration of national interest by the National Assembly, considers that it is appropriate to exploit these resources in these areas, it may call for a popular consultation to carry out the projects. On the other hand, in 2018, approved by referendum and popular consultation, a reform was given to this article and a paragraph was added that reads as follows: "All types of metal mining in any of its phases in protected areas, urban centers and intangible areas are prohibited (Constitution of Ecuador, art.407, 2008). As has been shown in the investigation, the regulations are not being complied with by the Petroecuador Public Company, which is active in blocks such as 41. On the other hand, in Ecuador there are other national policies that deepen the issue such as the Hydrocarbons Law that was reformed in 2018 and the Environmental Regulation of Hydrocarbon Operations, which work hand in hand with the Ministry of Energies and Non-Renewable Natural Resources, being its goal to promote the sustainable development of the country's energy and mineral resources. Finally, based on what the Constitution states, it can be established that the State may veto mining in protected and intangible areas, but not oil exploitation carried out in the same areas.

Although all this regulation exists and the story of the hydrocarbons industry has been told on its own, the consequences it has on the communities close to oil exploitation are tremendous. The indigenous populations of the Amazon have been a society that was denied their rights and once they obtained them, they were violated by their own state and private or public oil companies. However, the exploitation of crude oil in the Amazon affects from its search phase to the transport phase; deforestation to implement roads, platforms, bases and houses has led to species endemic to the area disappearing and house animals fleeing; the oil spill in forests and rivers has killed water and land animals, and contaminated the organisms of the indigenous people who use these rivers as a source; lighters pollute the air and have caused bronchial and lung problems in populations; seismic activity destroyed village homes and scared away game animals; the noise caused by dump trucks, machinery and energy generators has caused an affectation in the deep relationship of the indigenous people with the sound of the jungle damaging their soundscape to survive; finally, the fact that there are so many people from abroad in areas close to the Tagaeri – Taromenane Intangible Zone could cause contact with peoples in voluntary isolation and would have serious repercussions that would lead to their disappearance.

Despite the large number of evidence on what causes oil exploitation in the amazon of the country to indigenous communities and the environment. The State has ignored and currently (year 2021) the oil industry is advancing to territories that were supposed to be intangible and protective, although there are shortages of crude oil in the area and that it is no longer a reliable economic entry due to the fluctuation of the price. However, oil is the country's largest exported product and the basis of the economy and the state's dependence on oil revenues is not helpful in building positive alternatives for a post-oil country in which higher economic income does not affect the environment and indigenous communities.

## CHAPTER 4

### THE TAGAERI COMMUNITY: STRATEGIES TO PROTECT THEIR RIGHTS

The Tagaeri people are a nomadic community that has cycles of mobility on the western and southeastern borders of Yasuní National Park (Committee on Racial Discrimination - UN, 2017). That is, the community, according to the State, sits in the Tagaeri - Taromenane Intangible Zone which is an area of 818.501.42 hectares. This includes the parishes of Cononaco and Nuevo Rocafuerte in the Cato Aguarico and the parishes Ofés Arango and Curaray in the province of Orellana (García, 2019). Without however, there is a strong argument that ZITT does not respond specifically to the territoriality used by peoples in isolation, because as stated before these are nomadic and can even settle on the Border Ecuador – Perú depending on the time (WRM, 2013).

DELIMITACIÓN DE LA ZONA INTANGIBLE TAGAERI - TAROMENANE TRAS LA CONSULTA POPULAR DEL 2018

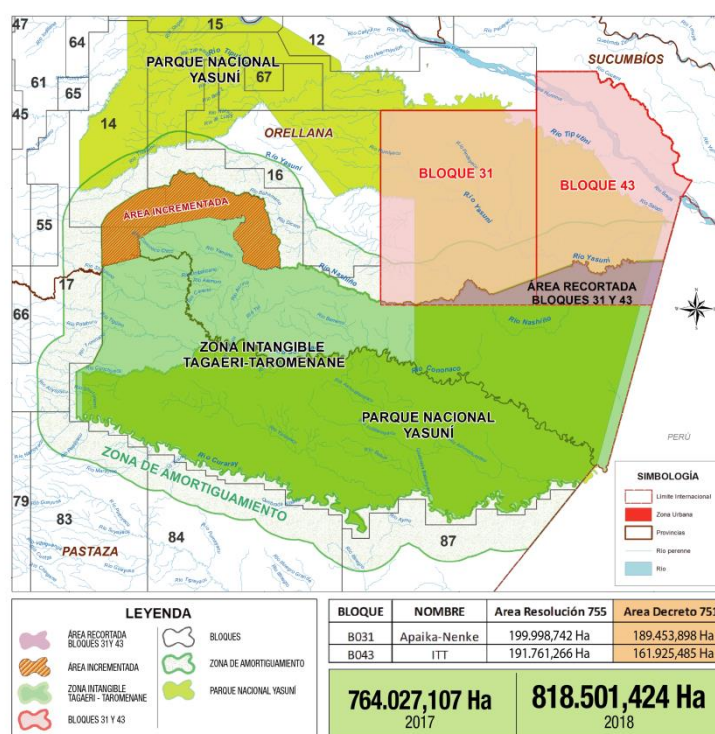


FIGURE 5

Source: (Ministry of Energy and Non-Renewable Natural Resources, 2019)

In the image you can see where the ZITT is in the Yasuní National Park, as well as the oil blocks near it. On the other hand, the Tagaeri people are considered one of the last peoples in isolation living in the Amazon, and in Ecuador it has been designated as an ancestral indigenous people. For these reasons, they possess individual, collective, cultural, identity, education, health, employment, and language rights, as well as a dignified life, to maintain and strengthen their institutions, cultures,

and traditions, and to seek their own development. This means that the State recognizes most of its human rights and fundamental freedoms as contemplated in the Universal Declaration of Human Rights (UN) and in the Inter-American Human Rights System, which the country has ratified and used as a source for the development of its policies (UN Permanent Forum on Indigenous Issues, 2007). Similarly, the Tagaeri people are considered to have the right to self-determination. However, this singularity of self-determination or their way of life in isolation, far from the dominant society, has not allowed social organizations or other indigenous peoples to protect them directly; or to know what they want for their people, what they have made clear is that they want to live without outside contact. Taking this into account, the State, its institutions, and the oil companies that operate in the territory of peoples in isolation, decided to be indifferent as to the existence of this group, and as has been evidenced in the previous chapters the indigenous peoples of the Amazon, including the Tagaeri, have suffered violations of their rights.

The location of the Ishpingo will be described below as this field is located within Block 43 – ITT of tanker; that in the last three years it has been embroiled in controversies over its exploitation; area of recurrence of the Tagaeri people. Therefore, the consequences that the exploitation of crude oil in the area have brought to the people in isolation Tagaeri will be announced; and to provide possible solutions for the protection of the rights of this people, national and international instruments that can be used for the protection of the community will be made known.

#### **4.1 Oil exploitation Block 43 – ITT: Ishpingo**

The Yasuní ITT (Ishpingo – Tambococha – Tiputini) is in the province of Orellana, and its location in the Yasuní National Park is in the northeast. It is bordered by the Buffer Zone and the Cononaco River in the southern part, in the eastern part with the border landmarks Ecuador – Peru, in the northern part with the Tiputini River and in the western part with Block 31. In addition, all this territory is also referred to as Block 43 – ITT. The Block is divided into three parts to the north by the area called Tiputini with 13 oil platforms (A – M), in the center is the Tambococha area with its 5 oil platforms (A – D), and in the southern part, and part of the Buffer Zone, is the area named Ishpingo that has two oil platforms the A and B (Pérez & Petro Amazonas, 2018) (SECOM - El Comercio, 2019). On the other hand, the ITT was studied since 2004 by the French Petroleum Institute (Beicep – Franlab) under the presidential mandate of Lucio Gutiérrez; the study showed that this is an area with extensive reserve of heavy crude oil. However, the exploitation of the area only remained in plans until 2007 with the entry of former President Rafael Correa, during that year and following years 3 plans were presented for the extraction of crude oil only in the Tiputini and Tambococha, leaving aside the Ishpingo because it is part of the Intangible Zone. In the end the then Secretariat of Hydrocarbons in 2011 presented the project of exploitation of the two areas in the forum of the

Source: (Pérez & Petroamazonas, 2018)  
FIGURE 6



Regional Association of Companies of the Oil Sector, assuring that by 2012 the oil activity would begin (El Comercio, 2011).

It is said that, for these territories to be exploited, the Correa Government spread the idea that tiputini and Tambococha were not part of Yasuní park, which was totally false, because in the Intangible Zone it was not possible to extract non-renewable natural resources (Martínez, 2011). In 2013 the Yasuní ITT Initiative failed, so the Government sent to the National Assembly the request for a declaration of interest in exploiting the oil fields located in Block 43 – ITT; the application was approved. Thus, in 2014 the exploration phase began (Ministry of the Environment, 2014).

Two years later the value of the reserve increased since the studies already done by Beicep – Franlab estimated that between the three fields there would be a production of 919. 7 million barrels, supporting 23 years of oil production for the country; thus, in 2016, extraction activities began in the Tiputini field. The exploitation of this field oversaw the public company Petro Amazonas, which managed

to drill up to 40 wells in the area and extract 50.000 barrels per day (Petro Amazonas, 2017). In 2017, the oil activities in the Tambococha field, contributing through 8 wells 12.500 barrels per day of crude oil. It should be clarified that Petro Amazonas was also in charge of the oil exploitation of this field, but by this time the public company was working with the Chinese company Sinopec, through a specific services contract since the State no longer had the economic resources to invest in the oil sector; for this reason, the Chinese company provided goods and services for the development of the field, and charged Petro Amazonas through a fee for services rendered (Pincay Flor, 2018). In 2019 Block 43 got 82. 658 barrels per day of crude oil from the ITT wells, given this it is currently the area with the highest oil production in Ecuador (Petro Amazonas EP, 2019). In 2020, and even though the country is going through a COVID – 19 pandemic, Petro Amazonas through the modality of providing specific services awarded the Chinese company Chuanqing Drilling Engineering Company Limited a contract to drill 24 more wells in the ITT on platform B and D of the Tambococha field



(Primicias, 2019). Keep in mind that, the ITT has under its soils around 672. 000 million barrels of oil so the exploitation of this Block is so far the largest oil exploitation project in the history of Ecuador; and until 2020 the Tiputini and Tambococha fields reported 67.059 barrels of oil per day (El Comercio, 2020). It is also necessary to highlight that the oil extracted from the Yasuní National Park is heavy crude and that is why it is called poor quality crude.



**FIGURE 7**

**Source: (Andean Amazon Monitoring Project, 2020)**

However, in 2019 the Ministry of the Environment issued the licenses that allow the public company Petro Amazonas to operate platforms A and B of the Ishpingo field; these fields are located south of Block 43 – ITT and the platforms mentioned are near the Buffer Zone (Figures 2 – 3) (Pacheco, 2019); in addition, the BZ separates by 10 km the oil blocks of the Intangible Zone (Mata, 2019). Again, it should be remembered that the Intangible Zone is not necessarily where the peoples are in isolation, since they are nomadic and come to cover large areas of the territory of the Yasuní. In July 2020, the development of oil activities in the Ishpingo field was suspended so the Ministry of Energy and Non- Renewable Natural Resources stated that it could start production of this field in August 2021. The Ecuadorian State planned to extract crude oil from Ishpingo since 2019. However, there was a delay in the issuance of environmental licenses. On the other hand, the state wanted to extract from the Ishpingo 11. 000 barrels of crude oil per day, extra than the amount they get throughout Block 43. Thus, to obtain the oil from the Ishpingo the public company PetroAmazonas in February 2020 began the construction of an access road, this "ecological access" that is in the heart of

the jungle will connect the Tambococha with platforms A and B of the Ishpingo (Pacheco, 2020), and will have a length of 8.1 Km and 4m wide. Until November 2020 the road advanced its construction by up to 60%, but for economic reasons and the COVID-19 pandemic it is not certain when the road will be completed (first quarter of 2021). In addition, once this project is finished, the Ishpingo will be able to enter huge drills to extract the oil (El Universo, 2020). Although, in March 2021 the manager of Petroecuador, Gonzalo Maldonado, announced that the exploitation of the Ishpingo field platforms A and B will not be able to develop in the second quarter of 2021 but will be from the year 2022; the reasons for this decision are: the delay in the delivery of ecological licenses and that the development phase of "ecological access", the construction of facilities and other operational aspects are not ready (Maldonado, 2021).

Finally, it is expected that in the Ishpingo field 72 wells will be drilled, 36 in each platform, and in this way achieve between 600 and 3.000 barrels per day of each (Maldonado, 2021). An important fact is that, the initial idea of the State was to extract oil from 10 platforms of the Ishpingo but being 8 of them in the Buffer Zone, the Government of Lenin Moreno takes the decision to discard the 3 platforms that were further south in order not to be near the Intangible Zone. However, to this day the State has only managed the permits with the Ministry of the Environment for the construction of two platforms in the Ishpingo (Pacheco, 2020). Despite this, Gonzalo Maldonado said that: "the Ishpingo field will continue to be developed, based on responsible policies with the environment, the communities of the area and adhering to the provisions of the Constitution and current regulations" (Maldonado, 2021); that is, the development of the 5 platforms, in addition to the A and B, in the Ishpingo is still a possibility regardless of whether these are within the BZ and near the Intangible Zone (Pacheco, 2019).

In conclusion, considering the Yasuní as an unbelievably valuable natural reserve, oil extraction in the area is fully permitted and endorsed both by the Constitution of Ecuador and by national regulations on non-renewable natural resources. Now, block 43 – ITT is of utmost importance because there is a great biodiversity, oil platforms surround the territory of indigenous communities and it is awfully close to the BZ and the Intangible Zone which are areas covered by villages in voluntary isolation such as the Tagaeri. Despite the, it has become the main oil area since it contributes with the largest amount of crude oil, although this oil is not of the best quality because it is heavy, and therefore the State has decided to drill more oil wells in the Tiputini and Tambococha, and open roads to reach the Ishpingo to build platforms in the place and be able to extract even more oil. The dangerous thing about this project in the Ishpingo field is that it is located south of Block 43, near the buffer zone, and even though the BZ it is separate by 10 km to the platforms of the Intangible Zone which directly endangers the Tagaeri people.

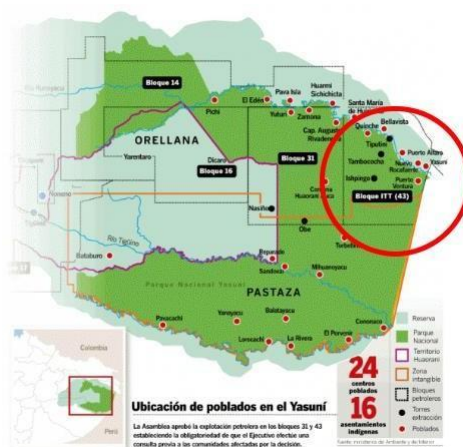


FIGURE 8

Source: (The Universe, 2013)

## 4.2 The consequences of oil exploitation in the Ishpingo field for the Tagaeri community

The extraction of oil in the Ishpingo field will be a reality by the year 2022, but for two years the activities surrounding the industry have been taking place and, this has been evident with the construction of the Tambococha – Ishpingo road. In addition, platforms A and B are located south of Block – 43, on the border with the buffer zone which as mentioned above, is an important area because it is the border that divides the Oil Blocks from the intangible zone where the Tagaeri isolated village is supposedly established; the BZ is also of interest given that according to article 3 of Executive Decree 751 in this territory the development of roads, hydroelectric power plants, oil facility centers and activities that have environmental impacts is prohibited, but at the same time it allows in this area the construction of drilling platforms and production of hydrocarbons (Executive Decree No. 751 , art.3, 2019). However, the State and the public company Petroecuador have always emphasized that they have been working on this project under environmental management plans and strictly complying with measures that ensure that the environmental and human rights of the uncontacted peoples are not violated in all phases of hydrocarbon activities (Ministry of the Environment and Water, 2020). On the other hand, there are opinions such as: that at the moment that the construction of these platforms near the BZ is allowed, and of the future platforms for oil extraction in the same area, the protection area is being reduced to expand the oil border, thus the State allows the peoples in isolation to be vulnerable because the new platforms are only 300 m from the BZ (El Universo, 2020) (Maldonado.P, 2019). Based on this it will be described different consequences that the oil activity of Block 43 in the Ishpingo field can cause to the Tagaeri community.

First, in 2018 the Ombudsman's Office already asked the State to suspend the oil activities of Blocks 31 and 43 (Tambococha field). The reason for this request was that, together with the collectives Geografía Crítica del Ecuador and the Ángel Shingre Network, made a visit and physical inspection to these areas since there were already citizen complaints about the violation of the rights of ancestral peoples, the environment, and their environment due to oil activity. The Ombudsman's Office presented a report, named Case DPE – 2201 – 220101 – 208 – 2018 – 000826, which describes everything that the collectives and the entity found during their visit, and points out the following points: the oil activities in the Blocks have exceeded the 300 hectares authorized, the state-of-the-art technology that reduces the environmental impact is not being used, and territory has been exploited where villages in isolation pass through. That is, the oil intervention that is being developed in these areas exceeded the hectares that were authorized according to the popular consultation of 2018 (Pacheco, 2019). However, the State and the Ministry of Hydrocarbons did not consider the report because they alleged that the oil companies operating in both blocks have all the licenses and have followed the protocols. In addition, they argued that the Ombudsman's Office should not affect the projects in Block 43 ITT, because if these operations stop the State would stop receiving around 500 million a year for oil (Pérez & Galárraga, 2019).

Second, in the year 2019 – 2020 and during the COVID – 19 pandemic the State through the public company PetroAmazonas has been building an "ecological access" in Block 43 ITT from the Tambococha to the Ishpingo to facilitate the extraction of crude oil in this field, the oil company has the environmental permits of the Ministry of the Environment and Water (MEW). This "ecological access", which is a road, has caused great concern to the Waorani communities living in the area and to environmental organizations, because platforms A and B of the Ishpingo are only 300 m from the BZ and therefore it is close to the ZITT where the Tagaeri people are supposed to live (The Universe, 2020). Also, the construction of this ecological access has been controversial for two issues: first, when the workers enter this area they used equipment that caused loud noises, in consequences endemic animals were dispersed and the oil company in charge of the project is looking for those animals to relocate in their territory. Then, to build this access the oil company cleared the territory to signpost the route of the road, place its margins and place stakes; afterwards, the workers used chainsaws and machetes to clear the area and thus gave way for backhoes to clear large trees (El Universo, 2020). For this reason, the collective Geografía Crítica argues that this road cannot be called "ecological access", because when using heavy machinery, it becomes road construction; in addition, a trail or access is a narrow path (Bayon, 2020). Also, to build this road at some point there would be the need to carry ballast and stone material from other areas, which causes geomorphological alterations of the terrain (Bayón, 2020). Finally, the MEW assured that the construction of this "ecological access" has not had a strong impact on the fauna of the area because

they have photographic evidence of animals wandering nearby, and those technical personnel of their entity perform daily accompaniments in the construction (Ministry of the Environment and Water, 2020). Although the MEW assures that everything is under the rules, this cannot be verified because no person who is not part of the project is authorized to enter the area (El Universo, 2020). Second, Manuel Bayón of the collective Geografía Crítica points out that the development of this road during a pandemic has been a total irresponsibility of the State because, a technician who worked in the development of the Ishpingo project said that the contracts to build the road and the platforms were suspended because there were cases of coronavirus of the personnel who worked in the area (Bayón, 2020) (Pacheco, 2020). Although, PetroAmazonas said that it applies rigorous protocols that are endorsed by the cantonal COE for its personnel to enter the construction zone (Petro Amazonas, 2020), this is serious given that the oil company's personnel can spread the virus and infect people from nearby communities or even members of villages in isolation; these people living in isolation do not have an immune system that can fight with the virus or will not go out to health homes to save their lives, they will most likely use ancestral medicine to cure themselves, but being an unknown disease there is a high chance that they will die (Bayon, 2020). Also, in the Waorani community several cases of COVID – 19 have been reported and due to the proximity, they have to the intangible zone they can also carry the virus to the Tagaeri people and even more so if they have access to roads that take them near Tagaeri – Taromenane territory (Mongabay Latam, 2020).

In the same way, scientific studies have shown that the construction of this road may bring with it processes of colonization, greater deforestation and other activities that can affect the normal dynamics of these territories (Mongabay Latam, 2020). For example, Galo Zapata Ríos, scientific director of WCS Ecuador, argues that, when new roads are opened, in these forested areas that have not been intervened, there is an increase in the illegal hunting and commercialization of animals (Zapata Ríos, 2020). As mentioned before, it may be that these animals that are hunted by other people are part of the diet of the Tagaeri people and, seeing the decrease of them or that the animals are chased away by both indiscriminate hunting and oil companies, it caused their daily diet to vary bringing them problems either in their health or to the life they were used to. On the other hand, it must be clear that this route brings other indigenous communities, people from abroad, or oil and logging workers closer to the Buffer Zone and therefore to the ZITT where the Tagaeri people supposedly live; and this can cause fortuitous encounters between them. In the interview with David Fajardo Torres, spokesman for the Yasuní collective, he explained that in the past there have already been meetings between the Waorani and the Tagaeri people, this ended in massacres towards the people in isolation and the kidnapping of two Tagaeri girls who now oversee the Waorani even though it is known that their families are looking for them; what is regrettable is that the Government has done nothing about it? David also says that there have been encounters between oil personnel or people who extract rafts and members of the villages in isolation, and that the reaction that the

Tagaeri have had to throw strangers so that they do not approach their communities or supposed to defend their territory and people. Taking as evidence these episodes it can be concluded that, if in the Ishpingo field that is so close to the BZ and the ZITT where the Tagaeri group lives there will be personnel who are operating on the oil platforms, there will come a time when they have some kind of rapprochement with the Tagaeri and the immediate response of these will be to attack the unknown ones, which can then bring serious problems because the people of the oil company will also defend themselves.

At the same time, the construction of this first phase of the Ishpingo project, which is the road and platforms A and B, facilitates sustained colonization in the area; an example that this has already happened was what happened with the Waorani community niwairi group, which is the most recent indigenous people to come out of voluntary isolation, when the oil companies settled in their territory they migrated to the south and east of the Amazon dividing families, their community and their ancestral territory. It also caused settler families living in cities near Waorani territory or other surrounding indigenous communities to move to this area because the national government declared the territories surrounding the oil companies as "badlands" and, therefore, people came to occupy them and use them for agriculture or livestock. So that these lands can be used for agriculture, the peasants dismantled the native forest and began to sow, and thus populated this territory (Trujillo Montalvo, 2017). The area in which the narration occurred is the one known as via Auca that was built to enter Block 61, which is in the province of Orellana (Santos, 2015). At present, along this road and the oil infrastructure sits a regional complex in which they exist: large agricultural areas and urbanization without planning. Likewise, the Waorani community that settled in this territory had different violent confrontations either with residents who arrived in the area, military, illegal loggers, and employees of oil companies (Trujillo Montalvo, 2017). This is the proof that the construction of the platforms in the Ishpingo field and the opening of the road to reach this area can bring the same consequences mentioned but in this case for the people in isolation Tagaeri, since their ancestral territory and the territory through which they usually transit is close to this new oil project.

It can be noted that, in the Ecuadorian Amazon there is an alert for the excess of illegal loggers in the area. During the COVID-19 pandemic between 2019 and 2020 there was a lack of environmental control, and this circumstance took advantage of the illegal loggers who entered deep lands of the Yasuní to extract raft. Something alarming is that the roads that have been built to enter the different oil wells of Block 43 ITT have allowed the logs that are felled are transferred to the Shiripuno River to go be taken out to Orellana or Lago Agrio. Also, the intersection of the tributary with the Auca road, which is located at the height of the ZITT Monitoring Station, has become an illegal timber collection center (Aguilar, 2020). In this sense, the excessive logging during the pandemic has been of great concern in terms of the villages in isolation Tagaeri – Taromenane since

these could have been affected by this activity that took place on the banks of the Shiripuno River that is near the BZ and therefore the ZITT (Solis, 2020). Again, throughout history they have been recorded among loggers and members of villages in isolation; some loggers have been thrown but there is no record of indigenous in isolation has died in these clashes (Solis, 2020). In addition, the construction of the road to the Ishpingo can cause illegal loggers to get closer to the ZITT because it is a little explored place and where they may find more wood or raft (Yepez, 2020). And, as TAL says, if illegal loggers can enter areas of the armed forces, they will be able to enter anywhere (Labaka, 2020).

However, for the construction of the entrance road to the Ishpingo that will measure 8.1 Km and 4m wide (El Universo, 2020) a few hectares of natural forests in the area must have been deforested, as mentioned above. However, so far there is no exact data on hectare counts deforested for this new Ishpingo project and, one point that should be clear is that the State together with the oil companies has already exceeded the 300 hectares authorized in the ITT. That is, how many more hectares of Amazonian tropical forest have been deforested for the construction of the Ishpingo oil project? This will not be known until 2022 when the extraction of crude oil from platforms A and B becomes operational. Despite this, deforestation from the beginning causes consequences for indigenous peoples, in this case the Tagaeri people, who are surrounding the oil activity and among the consequences can be found: first, it affects the mega - biodiversity that exists in the area by the disappearance of fauna and flora, as it is known the Tagaeri people live in harmony with the jungle and if it disappears or changes the village can also have changes in their way of life; and second, the less leafy the territory they inhabit, the easier it will be for them to be exposed to outside society.

Another important point, Block 43 including the Ishpingo has large amounts of groundwater, on average the fluid that is extracted from oil wells 89% is water and 11% heavy crude (Robalino, 2020). The water that comes out next to the oil is unusable since it is contaminated and has a high salinity product of the substances that the crude oil has. This means that plants, animals, and people cannot use this water in the future (Instituto Argentino del Petróleo, 1991). Which consequently will leave an irremediable environmental damage of this territory, in addition as is known the oil companies expel the waste to the rivers and, the closest water sources to this field are the Yasuní Rivers, Nashiño River and Cononaco River (National Directorate of Hydrocarbons, 2013) they are supposed to be used by the Tagaeri people. If these rivers become contaminated, they will cause Tagaeri members to contract different diseases either skin or cancers.

Finally, the different consequences that the Tagaeri people may experience when platforms A and B of the Ishpingo begin their operation, or if the other platforms planned by the government are built, are the same as those already suffered by the different indigenous communities that inhabit territories near oil companies; this can be seen in chapter 3, under the subtitle "The consequences of

oil exploitation for indigenous peoples and nationalities". In addition, consequences such as those left by seismic explorations that end aquatic life, underground and cause strong noise impacts can cause the Tagaeri community to go deeper into the jungle or migrate to places little explored, consequently the minimum knowledge that is currently had of the Tagaeri by the few sightings that have been had of the community, it may be that in the future we will no longer have information about them because they move away from their ancestral territory and, their history will only remain in the memory (Bayón & Yopez, 2020). Likewise, the Tagaeri are supposed to have a deep relationship with the sound of the jungle, because they depend on the soundscape for their survival (Moscoso, 2018), and one of the consequences of oil activity is that they generate noise by the power generators they use or by the heavy machinery that enters and leaves the oil fields (Bermeo, 2021). Noises can scare game animals too, and as far as the Tagaeri people know from their isolation they feed only on what nature offers them. With the disappearance of fish in the river and mammals in the territories the Tagaeri could have food shortages, which would force them to migrate or leave their isolation to survive.

In conclusion, although oil extraction in the Ishpingo field has not yet begun, the consequences that the first phases of oil activity bring with them can already be seen. The risk to the Tagaeri people in isolation is imminent even though their rights are guaranteed in article 57 of the Constitution of Ecuador. The State has decided to take note or miss the existence of peoples in isolation and their territory, because it has once again demonstrated that economic interests take precedence over the lives of minorities. The Tagaeri people are a fundamental part of the conservation of the Yasuní ecosystem because they have been called together to other peoples in isolation as protectors of the Amazonian lands. If at any time for reasons of the construction of the oil platforms in the Ishpingo field the rights of the Tagaeri people are violated, it will constitute a crime of ethnocide and this is protected by the Magna Carta (Constitution of Ecuador, art. 57, 2008). Therefore, the protection of the Tagaeri people is of the utmost importance because of the protection of the Yasuní, because of their cultural and historical richness and because they are human beings who only decided to live differently.

### **4.3 Mechanisms and instruments in the Ecuadorian State to protect the Tagaeri community**

The Tagaeri community is part of the peoples in voluntary isolation of the Ecuadorian Amazon and therefore is also part of the indigenous peoples of the region. The oil project in the Ishpingo field, an area close to ZITT, and its state of isolation have become reasons for the Tagaeri people to be vulnerable and for their members to be at risk of their rights being violated or possible cultural disappearance. However, because they are a minority and live-in vulnerability, the Ecuadorian State



must safeguard the rights of the Tagaeri either through national mechanisms or instruments. In this way, the mechanisms that exist in Ecuador to protect the Tagaeri people in isolation will be described below, considering what has already been investigated in chapter 3 sections 3.4 – 3.5.

It should be emphasized that the care of the PIA is an issue that for the moment remains in limbo in Ecuador. In August 2018, President Lenin Moreno dissolved the Ministry of Justice, Human Rights and Worship, which was a ministry that dealt with issues such as: care for women victims of violence, the management of the country's prisons and the protection of indigenous peoples in isolation; however, the Directorate for the Promotion of the peoples in voluntary isolation was an office of the Undersecretariat for Rights and Worship, which at the same time was part of the Vice-Ministry of Justice, Human Rights and Worship, but did not have a clear public policy. Even former state officials claim that during the operation of the then Ministry documents were developed about the peoples in voluntary isolation that were never published, because there was always a more important issue that overshadowed the defense of these peoples, and that is oil (Ponce, 2018). In the same year, the explanation of who would take charge or how the issue of indigenous peoples in isolation in the country would be handled was as follows: "In the face of institutional adjustments, the government must ensure compliance with these mandates by creating a technical Secretariat attached to the Presidency of the Republic, which guarantees sufficient unity, authority, neutrality and confidentiality. This issue of rights and protection cannot be subordinated to the requirements of negotiation and permanent political dialogue that corresponds to the National Secretariat of Political Management" (Voluntario, 2018); in this way, the Human Rights Secretariat was created, which is responsible for the protection of the PIAV, and the National Service of Integral Attention to Adults Deprived of Liberty and Juvenile Offenders (El Universo, 2018). In addition, the Human Rights Secretariat established the Undersecretariat for the Protection of Indigenous Peoples in Voluntary Isolation and has as its mission to safeguard the human rights of the PIAV through the formulation, dissemination, and implementation of protection policies at the national level. To fulfill her mission, the Undersecretary has: The Directorate of Promotion and Policy for the Protection of Indigenous Peoples in Isolation, and the Directorate of Monitoring and Follow-up of protection of Indigenous Peoples in Isolation (Human Rights Secretariat, 2019). Despite this, according to Milagros Aguirre, who is aware of Ecuador's peoples in voluntary isolation, the state failed through the then Ministry and the current Undersecretary since no one has taken charge of the murder of the Waorani by the isolated and when the killing of the isolated for Waorani revenge occurred (Aguirre, 2018). Milagros assures that, it seems that the State is uncomfortable with the presence of the isolated (Aguirre, 2018) and, the lawyer Verónica Potes says that the Government cannot deny the existence of the PIAV and for that reason created the ZITT to leave out of the area the extractives activity (Potes, 2018) and therefore, possible abuses of rights to the peoples in isolation. Finally, Roberto Narváez says that neither the State nor the Undersecretary for the Protection of Indigenous Peoples in Voluntary

Isolation are clear about the real border of the historical territory of the PIAV, and economic interests have prevailed – oil over human rights; and points out that, it must be considered that the ZITT is not enough for these peoples since according to their studies they are mobilized by the majority of the Yasuní National Park, so the State must consider an additional area of mobility for the isolated (Narváez, 2018). At present the Human Rights Secretariat from the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation is the governmental entity that should be responsible for creating projects or coordinating actions for the protection of the Tagaeri isolated people and other peoples in isolation. However, in the last two years, the Undersecretary has carried out projects such as: awareness-raising workshops on the peoples in voluntary isolation regarding their rights to institutions; coordinated inter-agency actions to protect ZITT; and monitoring in the ZITT to make visible threats that they may have.

In this way, the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation must be aware of the institutions or groups that put the Tagaeri people in isolation and the other isolated communities. Thus, it should conduct awareness-raising workshops on the rights of peoples in isolation focused on oil companies operating within the Yasuní National Park. Also, the information obtained by the institute on the MONITORS of the ZITT could be published through reports, which in turn would help the Secretariat of Human Rights to take concrete actions to avoid that there are risks to the peoples in voluntary isolation and not that the State intends to repair the abuse of the rights to the peoples in voluntary isolation after the damage, considering that the Secretariat is responsible for protecting the rights of the same. Also, this would represent a kind of pressure on the State to take seriously the existence of the peoples in voluntary isolation and develop actions that are directly directed at these peoples and not in general at the indigenous peoples of the Amazon, because as has been evidenced in previous chapters the peoples in voluntary isolation have different needs and specific rights that they want to be respected., and an example of this is to maintain its state of isolation. The work carried out by the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation could be carried out in conjunction with non-governmental organizations, collectives, social actors of the environment and protection of human rights or rights of indigenous peoples, as well as with the indigenous communities close to the peoples involuntary isolation, to recognize and propose activities to protect the isolated, and the Tagaeri who are the most vulnerable group since according to this research they may even have disappeared or few of them remain. This is because there are groups such as the Yasunidos or NGOs such as IWGIA and Amazon Frontlines that have developed scientific studies on the peoples in voluntary isolation and already have in mind certain proposals for the protection of these peoples.

In addition, the Ecuadorian State has the following articles in the 2008 Constitution: article 57, which recognizes and guarantees 21 collective rights for communes, communities, peoples, and

nationalities, in accordance with the Constitution, covenants, agreements, declarations and other human rights (Constitution of Ecuador, article 57, 2008). In the final part of article 57, it is emphasized that, "The territories of peoples in voluntary isolation are of irreducible and intangible ancestral possession, and in them any type of extractive activity will be forbidden. The State shall take measures to guarantee their lives, ensure respect for their self-determination and willingness to remain in isolation, and safeguard the observance of their rights. The violation of these rights shall constitute a crime of ethnocide, which shall be defined by law" (Constitution of Ecuador, art. 57, 2008). Now, even though the Ishpingo field is not within the Tagaeri – Taromenane Intangible Zone, the oil activity that will be developed there is close to this territory and even closer to the Buffer Zone and, as previously stated, the Tagaeri people are nomadic, that is why they travel in areas outside the area that the State imposed on them. Furthermore, article 407 of the Constitution states that the development of activities extracting non-renewable resources or logging in protected territories and areas declared as intangible is prohibited. However, if the Presidency of the Republic, with a prior declaration of national interest by the National Assembly, considers that it is advisable to exploit these resources in these areas, it may call for a popular consultation to carry out the projects. All types of metal mining in any of its phases in protected areas, urban centers and intangible areas are prohibited (Constitution of Ecuador, art.407, 2020). At the same time, their state of isolation does not allow the Tagaeri people to be part of the collective right to prior, free, and informed consultation on projects for the exploitation of non- renewable resources on their lands. For this reason, the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation, part of the Human Rights Secretariat, which is the delegate to enforce the rights of the Tagaeri people in this case, must put pressure on the Government to comply with the provisions of the Constitution concerning peoples in isolation. Similarly, the Hydrocarbons Law says that before an oil project is held on lands that the State has designated to indigenous communities, and that could affect the environment, Petroecuador and the companies that consign these projects must first consult the communities settled in these territories about oil extraction. Once again, this act is impossible to carry out with the Tagaeri people given their isolation, for that reason urgently the Undersecretary in charge of the protection of the peoples in voluntary isolation is the subject that must ensure the rights of these peoples. However, it is of course, being a state office, it will always take care of the interests of the State, so in those instances the national agencies and collectives that fight for indigenous peoples and the environment must maintain pressure so that the Government respects and validates what it indicates in its Constitution and national policies about the protection of indigenous peoples in isolation. On the other hand, the Hydrocarbons Law states that before the start of an oil exploration or extraction plan or project that is to be developed on lands that the Government has assigned to indigenous communities or peoples of African descent, and that could damage the environment; Petroecuador, its subsidiaries, contractors or associates must first consult with the peoples or communities. Likewise, it states that once the stages of exploration or exploitation of crude oil in areas where these communities live are completed, they

will be able to benefit from the infrastructure built by Petroecuador (Hydrocarbons Law, 2018). In this case it can be shown that the oil companies try to remedy the damage in the territory already exploited by donating the infrastructure to the indigenous peoples who settle in these areas. However, as the Tagaeri are a people in isolation who wish to maintain their culture, they will not make use of an infrastructure that is unusable for them. What the Tagaeri people require of the state is that it respects their territory, the environment around them, and their decision to remain in isolation, and be able to safeguard their rights properly.

On the other hand, article 80 of the Organic Integral Penal Code states: "Ethnocide. - The person who, deliberately, generalized or systematically, totally, or partially destroys the cultural identity of peoples in voluntary isolation, shall be punished with a custodial sentence of sixteen to nineteen years" (COIP, article 80, 2014). Thus, if the oil exploitation in the Ishpingo field that will take place in 2022, and the future exploitations proposed by the State in the BZ, was to give abuses to the rights of the Tagaeri people and these produce damage to their identity, article 80 of the Organic Integral Penal Code can be applied to punish this act. And at this point it can be emphasized that not only the oil company that works in the Ishpingo will be the one that can violate the rights of the Tagaeri people, but we must also take into account what has been said in previous chapters and that is that, when there is oil activity in an area this facilitates the entry of other industries, people or activities to the Amazonian territories. In this case it has been possible to show that, the road under construction to allow the entrance to the Ishpingo has resulted in illegal logging to arrive at protected areas to extract the product, and as evidence of how dangerous this can be there have been cases in which there have been violent clashes between loggers and uncontacted that have ended in deaths. Even though the evidence exists, the state has not correctly applied the law and has allowed these cases to go unpunished. The same could happen in the case of the Ishpingo field and is even more dangerous given the proximity of this oil project to areas inhabited by indigenous people in isolation. Instruments such as article 80 of the Organic Integral Penal Code are there to punish these acts and the State together with its institutions, in this case the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation must apply this regulation to fulfil its objective of safeguarding the rights of peoples in isolation and in this case of the Tagaeri people.

It is important to consider that the Tagaeri people are nomadic and therefore travel several sectors outside the ZITT. The Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation through the Directorate of Monitoring and Follow-up of Protection of Indigenous Peoples in Isolation could demonstrate through information obtained from the monitoring center that sectors transit the isolated outside the ZITT so that the State, the Ministry of Energy and Non-Renewable Natural Resources and Petroecuador take into account this factor of utmost importance when creating oil areas in the Yasuní and, in a more focused way for the State to reanalyze the construction of the oil

wells of the Ishpingo Field in the Buffer Zone. These entities being State must take even more into account what the Constitution promulgates and not turn a blind eye to fulfill their personal interests. Another important point that must be considered is that the Tagaeri people are among the last peoples considered as protectors of nature and that when their rights are violated, the ecosystems of the Yasuní, which are among the most diverse in the world, are endangered (CEDHU, 2019). For this reason, the Government must take into account that the oil company that is in charge of the oil project in the Ishpingo field does not abruptly destroy the ecosystem of the area, although it is impossible, because as we could see in the consequences of oil exploitation for the indigenous peoples the pollution caused by the extraction of oil not only affects the oil area but also surrounding areas by deforestation, noises by explosives or machinery, toxic waste or oil spills that flow into rivers, and other factors that can intervene in the daily life of the Tagaeri people because of their proximity to the Ishpingo field and, because they travel through territories such as the Buffer Zone to collect food.

Considering what was stated in the previous paragraph, Ecuador in its Constitution has articles that protect the environment, and there are also national legal norms such as: the Organic Code of the Environment, the Regulations to the Organic Law of the Environment, the Hydrocarbons Law and the Environmental Regulation of Hydrocarbon Operations that contain regulations about how the oil activity in the country must develop so as not to affect nature and even indigenous peoples. In addition, the 2008 Constitution of Ecuador is a document containing several articles that refer to the protection of indigenous nationalities, which include the isolated Tagaeri people; that is, in Ecuador there are mechanisms or instruments for the protection of the Tagaeri people and their rights for reasons of oil exploitation near its territory, and the State should be the main guarantor of these rights. Therefore, the Government, together with the Secretariat for Human Rights, should create a commission that includes several officials from different areas such as the Ministry of the Environment, Health, Culture, Hydrocarbons and even the Ministry of the Interior, to develop a concrete public policy for the peoples in voluntary isolation. This is because despite the existence of instruments for the protection of the rights of the Tagaeri people have not been applied to safeguard their security and, a public policy would be of greater help since it would focus strictly on these peoples in isolation, and on the other hand it would be of greater public knowledge because it would not be surpassed by other policies that are taken as of greater importance. This is not a new idea, at the time when Rafael Correa was president in 2013 there were clashes between a Waorani group and a group of isolated that is presumed to have been Tagaeris, in this confrontation around 30 isolated people died. After this fortuitous moment, a presidential commission was created, which was made up of officials from the Ministry of Justice, Health, officials of the Secretariat for Politics and other officials who were responsible for developing a public policy for indigenous peoples in isolation; public policy was developed and even signed by former President Correa however it never came into effect (Ponce, 2018). Ecuador at that time was going through an economically difficult time, so oil

extraction prevailed as the fast economic source for the country. Today the country is in the same way, economically speaking, but the social pressure of environmental groups, human rights and indigenous communities has increased in recent times and has been strong in demanding the protection of peoples in isolation; in addition, it is the first time that oil activities are developed so close to the Tagaeri – Taromenane territory for that reason it is urgent that the State also acted in favor of the defense of them.

The Ecuadorian State, considering the already existing national instruments, could reform article 407 considering article 57 of the Constitution, because they contradict each other (Castro, 2020) and because in that way there could be a real protection of the rights of the people in isolation Tagaeri and other isolated peoples. At the end of article 57 is a statement that refers to the ancestral possession of the territories of these peoples and that therefore, the State will veto all extractive activity in the area to guarantee their lives and protect their rights (Constitution of Ecuador, art. 57, 2008). However, in the Constitution there is also article 407, which repeats that there can be no extractives activity in protected territories and intangible areas, such as the Tagaeri – Taromenane Intangible Zone, but that if there is prior national interest, non-renewable resources of these territories may be exploited through a popular consultation (Constitution of Ecuador, art.407, 2008). These articles have caused confusion when carrying out oil projects in the Yasuní, and in this case as it is of national interest the oil that is in the Ishpingo field for economic reasons, the State has allowed intervention to this area despite its proximity to the ZITT. For this reason, an amendment should be made to the Constitution of Article 407 to eliminate the part that says, "However, if the Presidency of the Republic, with prior declaration of national interest by the National Assembly considers that it is advisable to exploit these resources in these areas may call for popular consultation to carry out the projects" (Constitution of Ecuador, art.407, 2008). The reason for this is that the article is not complying to protect peoples in isolation and would be nullifying the protection of the Intangible Zone so there would be no reason for this zone to exist. In addition, the State will always have a "national interest" in these areas because as David Fajardo pronounces: "oil extraction is the fastest and easiest way to have economic income in a country" (Fajardo Torres, 2021). And if you inquire about the oil projects that have taken place in the Yasuní, which is a protected area, there have been no prior consultations for the construction of the different oil blocks in the National Park. In this way, the State being the main actor in the protection of human rights, and in this case of the rights of peoples in isolation, these articles should be reformulated to protect the Tagaeri people in a dignified manner, or if the Petroecuador company that is in charge of oil extraction in Ishpingo comes to accuse the Tagaeri people of harm for the inefficiency of the State by not adequately protecting this people, will have to abide by what Article 80 of the Organic Integral Penal Code pronounces.

The Tagaeri people are in danger because of the oil activity that is taking place in the Ishpingo

field of block 43, which is why the State must urgently consider measures to ensure that the rights of these people are genuine. Technical studies and scientific research exist on the part of the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation and by other organizations or collectives, what remains is that the State, being the main guarantor of their rights, considers all this material to somehow protect the isolated and not once again superimpose oil interests on the life of the Tagaeri. Lastly, it is worth calling on the conscience of State officials, especially assembly members, to reformulate what is laid down in the Constitution in terms of protected areas and oil exploitation in them, which directly affects peoples in isolation such as the Tagaeri.

#### **4.4 International mechanisms and instruments for the protection of the rights of the Tagaeri nationality**

Research has shown that Ecuador is subscribed to three international instruments of the utmost importance in the field of the rights of indigenous nationalities and specifically to one that refers to the protection of peoples in voluntary isolation. Next, the intention is to pronounce on these instruments and how the Ecuadorian State can include them to create policies or mechanisms to protect the rights of the people in Tagaeri isolation, given the oil exploitation of the Ishpingo field in Block 43. In addition, other international instruments to which Ecuador has access and from which you can take advantage to create plans, projects, policies, or mechanisms that help protect the life of the Tagaeri people. On the one hand, international organizations that are intricately linked to Ecuadorian national regulations and that can help in the creation of national policies will be presented, and then international or national NGOs working in favor of indigenous human rights, or the environment will be able to know, which will serve as a foundation for the possible creation of projects that help in a certain way to protect the rights of the Tagaeri peoples.

##### **4.4.1 International Organizations**

The first international instrument to be ratified by the Ecuadorian State is ILO Convention No. 169. This Convention has a basic postulate that is: "the right of indigenous peoples to maintain and strengthen their own cultures, ways of life and institutions, and their right to participate effectively in decisions that affect them" (Tinoco, 2014). In 2017, Ecuador ratified the Convention again, so it committed itself to adapting its legislation and developing actions in accordance with the rulings of the Convention and its 46 articles, which respect the rights of indigenous peoples; Ecuador also undertook to report regularly on the application of the Convention in its statute and in practice, and to respond to questions, observations, or suggestions

from the ILO supervisory bodies on indigenous rights in the country. ILO Convention No. 169 has certain articles that could be of great help in protecting the rights of the Tagaeri people and that should be applied by the State to safeguard the rights of this people and comply with what was agreed in the Convention. The articles are as follows:

Article 2 .- "to ensure that the members of the indigenous peoples concerned may enjoy in the same way the rights and opportunities that national legislation grants to other members of the population" ILO Convention No. 169 on Indigenous and Tribal Peoples, art.2, 2014). Members of the Tagaeri people must have the same rights as other people in Ecuador, and the most important thing would be to respect their right to enjoy their ancestral territory, the protection of human rights, and the right to have their way of life respected in isolation. That is why the same article of the Convention states that the State must promote the social, economic, and cultural rights of the indigenous people while respecting their social and cultural identity, as well as their customs and traditions (ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 2, 2014).

Article 4.- "Special measures shall be adopted as may be necessary to safeguard the persons, institutions, property, work, cultures and environment of the peoples concerned" (ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 4, 2014). Although there are articles in the Constitution concerning the protection of the rights of indigenous nationalities, it is only at the end of article 57 that emphasis is placed on the right to ancestral possession of the territories of peoples in isolation. However, it must be clear that the needs of the peoples in isolation, in this case the Tagaeri People, are different from the needs of the other indigenous communities of the Amazon living in contact, for that reason it is necessary that the State based on this article of the Convention consider the creation of special measures to safeguard the life of these peoples. In the same article, section 2 it states: "such special measures shall not be contrary to the wishes freely expressed by the peoples concerned" (ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 4, 2014). This must also be considered because the state must find a way to safeguard the rights of the Tagaeri people, but always respecting their desire to remain in isolation.

Article 7: The results of these studies should be considered as fundamental criteria for the implementation of the above-mentioned activities" (ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 7, 2014). This article is of utmost importance given that the State, even though oil extraction is not being developed in ZITT but close to it, must have a study that corroborates that there will be no harm to the Tagaeri people by this project. Apparently, the State has not considered that this people is nomadic and that it travels through territories outside the ZITT, these territories are those of the BZ and even outside it, so it is urgent that the State make a real study on the impact that the oil extraction in the Ishpingo field – Block 43 can cause to this group and the other peoples in isolation. This will comply with the provisions of this Convention and will be able to protect the



rights of isolated individuals.

Article 12.- "the peoples concerned shall have protection against the violation of their rights, and be able to initiate legal proceedings, either personally or through their representative bodies, to ensure the effective respect of such rights" (ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 12, 2014). This article has been of great help to safeguard the rights of the Tagaeri people because the Ecuadorian State ignored the protection of the rights of peoples in isolation, because of the projects that affect their territories, natural resources, and way of life, as well as the violent deaths of the members of the Tagaeri – Taromenane peoples that occurred between 2003 – 2006 – 2013. Given these reasons, a commission made up of Fernando Ponce, Raúl Moscoso, Juan Guevara, Patricio Asinbaya, and CONAIE lawyers David Cordero and Mario Melo, and representatives of the Yasunidos collective such as Pedro Bermeo; they presented the case to the Inter-American Commission on Human Rights. This case will be explained later when we refer to the Court / Inter-American Commission on Human Rights. This is a great example to show that such international instruments are helpful in protecting minorities, in this case the Tagaeri people, of their own state which is supposed to be the main protector of their rights.

Article 13 – 2: The use of the term land in Articles 15 and 16 shall include the concept of territories, which covers the entire habitat of the regions that the peoples concerned occupy or otherwise use" (ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 13, 2014). This is another article of the Convention that could address the protection of the Tagaeri people, previously pronounced the Tagaeri people are nomadic and who travel territories outside the ZITT. Article 14 also refers to the issue, which was raised: "the peoples concerned shall be granted the right of ownership and possession over the lands they traditionally occupy. In addition, in appropriate cases, measures should be taken to safeguard the right of the peoples concerned to use land that is not exclusively occupied by them, but to which they have traditionally had access for their traditional and subsistence activities. In this case, particular attention should be paid to the situation of nomadic peoples and itinerant farmers" (ILO Indigenous and Tribal Peoples Convention No. 169, art. 14, 2014). Thus, it is well known that the State has not considered the seasonal patterns of sowing and harvesting of the people in isolation, which has caused contacts to exist and their subsistence to be affected by the surrender of their territories to companies for the exploitation of non-renewable resources (IACHR, 2020). Thus, if the Ecuadorian State would take this article into account and make the Undersecretary for the Rights of the peoples in voluntary isolation carry out a study on the territories that the Tagaeri travel through, the State could adequately delimit the territory of the people so that in it there is no kind of oil intervention and thus safeguard the rights of the people in isolation. That is, considering this article and the studies on the routes of the Tagaeri people, the State should reformulate the Tagaeri – Taromenane Intangible Zone and totally prohibit the existence of oil

activity in territories that are used by them at different times of the year for their survival.

Finally, article 33 of ILO Convention 169 describes something that is important for the Ecuadorian State to take charge of to safeguard the rights of the people in Tagaeri isolation. Article 33 states: "The governmental authority responsible for matters covered by this Convention shall ensure that appropriate institutions or other mechanisms exist to administer programs affecting the peoples concerned and that such institutions or mechanisms have the necessary means for the full performance of their functions" (ILO Indigenous and Tribal Peoples Convention No. 169, art.33, 2014). As is known in Ecuador, the Human Rights Secretariat is responsible through the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation for the protection of peoples in voluntary isolation. However, this agency has not done anything concrete at present to save the lives of the isolated knowing that they are at risk from the Ishpingo field oil project, it can even a point to become understandable that this Undersecretary is not considered by the government since the economic interests - oil will prevail. Despite this, agencies should in some way seek to protect the isolated, and for that reason certain procedures will be presented that could be carried out:

In 2006, the Inter-American Commission on Human Rights issued precautionary measures in favor of the peoples in voluntary isolation in Ecuador. That is why the State took actions such as placing a group of park rangers to guard the ZITT and monitoring the location of the Tagaeri and Taromenanes through satellite photographs. Although the State took measures, these were not sufficient for the protection of the isolated (Castro, 2020), and currently of these measures there is only one that is the monitoring of peoples in isolation through the Directorate of Monitoring and Follow-up of Protection of Indigenous Peoples in Isolation part of the Undersecretary. However, as could be seen in point 4.3, what the Undersecretary is carrying out is not of great impact to protect the isolated. Therefore, an interesting serious proposal, which through the advice of the Permanent Forum on Indigenous Issues, which is a UN body that has special advice and recommendations on indigenous issues; and through the investigative support of the Expert Mechanism on the Rights of Indigenous Peoples, which is a subsidiary body of the UN, the Undersecretary could obtain valuable studies on peoples in isolation and to be carried out in case of a possible danger of violation of their rights. In addition, they are organizations that could advise the Ecuadorian State how to have adequate practices for the protection of the rights of peoples in isolation, and all the studies that these organizations carry out, in which you can find about the isolated peoples of South America, are public and can be of help at the moment in which the Undersecretary for the protection of the peoples in voluntary isolation create activities or policies to protect the isolated. In terms of protection by park rangers is a somewhat delicate issue given that in these times of pandemic many of them have withdrawn for lack of payments and fear of contagion by Coronavirus. In addition, park rangers lived in constant danger as they were killed for their protection work. At this point, if the Undersecretary

thinks that it is ideal to place park rangers in the zone for protection, it should through the Escazú Agreement, which entered into force on April 22, 2021, ask the State to defend the rights of these people who often do their work not for economic reasons but from the heart. On the other hand, it is important that the Undersecretary and environmental or human rights organizations take into account this new Escazú Agreement since it is a regional agreement on access to information, public participation and access to justice in environmental matters, and as David Fajardo says: "It will be the first time that the protectors of environmental and indigenous rights will obtain real information on the projects carried out in the country" (Fajardo Torres, 2021). In this way, the undersecretary of protection of nature and indigenous peoples in isolation would be effective because real information would be provided.

The next International Instrument that has been ratified by Ecuador and that must be considered by the State for the protection of the rights of the people in Tagaeri isolation is the United Nations Declaration on the Rights of Indigenous Peoples. The objective of this Declaration is the immediate effect on the rights of indigenous peoples in the world, which is contemplated throughout its 46 articles that raise various issues such as: identity, collective, cultural rights, health, education, employment. In addition, the Declaration emphasizes that indigenous peoples have the right to persevere and strengthen their traditions and culture as well as to work for their development in accordance with their needs and aspirations. The Declaration was considered for the creation of the articles related to the rights of indigenous peoples in the 2008 Constitution of Ecuador because the country ratified the Declaration a year earlier, and its incorporation into the Magna Carta is notorious for its concordance between articles 56 – 60 – 71 – 74 – 96 – 99 with articles 3 – 4 – 5 of the Declaration. Despite this, what the Declaration says has been considered for the rights of indigenous nationalities in general and not specifically for the rights of peoples in isolation, for that reason certain articles that could be of help in the creation of specific rights for the Tagaeri will be published below.

Article 3: "Indigenous peoples have the right to self-determination. By virtue of this right, they freely determine their political status and freely pursue their economic, social, and cultural development" (DNU DPI, art. 3, 2007). Putting this article into context in relation to the Tagaeri and other peoples in isolation, these groups have every right to live in isolation because it is a decision, they have made based on maintaining their typical culture and traditions without being affected by the outside. Now, the oil project of the Ishpingo field is located near the area that this town runs through, therefore it could be normal for there to be meetings between oil workers and the isolated, as has already happened with people who work in other blocks such as these. This would be dangerous given that the isolated could have the curiosity to go outside like the others and as they are people who have lived without contact for a long time, they could first have anxiety problems or nervousness as described in chapter 2, and on the other hand their culture gradually disappeared. Second, the Tagaeri

protect their territory at all costs and, by moment of encounters with "those from the outside" what they do is attack to death. These cases have already been presented and no one has done justice for the deaths of oil workers or loggers and Tagaeris attacked with weapons. Self-determination to live in isolation for the Tagaeri people must therefore be a right protected by the Constitution so that such problems do not exist. Thus, article 7 relates to the topic and proclaims that: "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 the forced transfer of children from the group to another group (DNU DPI, art. 7, 2007). When there are intruders in Tagaeri lands and encounters, the isolated cease to live in peace and with security because for them what happens is a kind of invasion, so they must get these people out of there. And as the article says, if there are violent clashes and even deaths in these encounters, the state would not be complying with the protection of peoples in isolation.

Article 8: States shall establish effective mechanisms for the prevention and redress of: a) Any act which has the object or consequence of depriving them of their integrity as distinct peoples or of their cultural values or ethnic identity; b) Any act which has the object or consequence of dispossessing them of their lands, territories or resources; d) Any form of forced assimilation or integration" (DNU DPI, art. 8, 2007). This is an article of great importance for the following reasons, as stated in the previous paragraph that the Ecuadorian State allows people from abroad to be close to peoples in isolation can bring consequences such as: violent confrontations, the indirect forcing to be a contacted people and possibly the disappearance of this culture. For this not to happen, the state should create policies that protect uncontacted peoples from the outside world to respect their way of life in isolation. However, as was evident, article 57 of the Constitution tries to protect the ZITT and therefore the Tagaeri, but it is annulled by article 407 which allows these peoples to be below oil interests in one way or another. Despite this, this Declaration contains this article 8 which can be applied internally in the country to protect the Tagaeri and other peoples in isolation.

Art.10. - "Indigenous peoples shall not be forcibly displaced from their lands or territories. No transfer shall take place without the free, prior and informed consent of the indigenous peoples concerned, nor without prior agreement on fair and equitable compensation and, whenever possible, the option of return" (DNU DPI, art. 10, 2007). The Tagaeri – Taromenane Intangible Zone is a territory that the State imposed on peoples in isolation. That is, for the Ecuadorian State and studies that has been carried out by the people in isolation Tagaeri inhabits this area, however and even though in 2018 they extended the ZITT the reality is that the isolated do not specifically inhabit this area. Apparently, the State does not have a real study on the different areas, depending on the time, inhabited by villages in isolation, much less the areas that travel outside the ZITT to get their livelihood. Here the drawback is that the State imposed that this is the territory that the isolated

inhabit to be able to develop in neighboring areas oil projects "without affecting" the uncontacted peoples. Furthermore, article 25 of the Declaration states that: "indigenous peoples have the right to maintain and strengthen their own spiritual relationship with the lands, territories, waters, coastal seas and other resources that they have traditionally owned or occupied and used and to assume their responsibilities towards future generations in this regard" (DNU DPI, art. 25, 2007). Similarly, article 26 states: "Indigenous peoples have the right to lands, territories and resources that they have traditionally owned, occupied or used or acquired. Indigenous peoples have the right to own, use, develop and control the lands, territories, and resources they possess by reason of traditional ownership or other traditional occupation or use, as well as those they have otherwise acquired. States shall ensure the legal recognition and protection of such lands, territories, and resources. Such recognition shall duly respect the customs, traditions and land tenure systems of the indigenous peoples concerned" (UNDID, art. 25, 2006). These articles are quite clear as to the territories that should be protected for the sake of the rights of the Tagaeri people. Not only the ZITT is related to the isolated but also areas such as the ZA and even several territories of the Yasuní in which there are currently oil blocks, and an example of these is Block 31. And, although the existence of ZITT is not a forced displacement, the whole environment in which they live is not really being considered. For this reason, it is of the utmost urgency that before the Ishpingo camp becomes operational, the State should have a real study of the territories inhabited and traveled through by the isolated Tagaeri people and the other isolated people, to comply with their rights.

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Article 29: States should establish and implement programs of assistance to indigenous peoples to ensure such conservation and protection, without discrimination. States shall take effective measures to ensure that hazardous materials are not stored or disposed of on the lands or territories of indigenous peoples without their free, prior and informed consent" (DNU DPI, art. 29, 2006). This is another article that could be considered by the State for the creation of concrete national policies for the protection of the Tagaeri and in general of peoples in isolation. The State, once again, has not considered the close relationship that the Amazonian indigenous people have, and even more so those isolated with nature. If the Government allows oil activity to exist near the ZITT, it is allowing the destruction of the environment and, therefore, of the environment where the isolated live and from which they feed physically or spiritually. The consequences are that the isolated do not live-in peace as they are used to doing, so the State could adopt measures so that the oil companies do not cause greater impacts to these lands or so that they do not take their activities to territories beyond what is allowed.

Finally, article 37: It is simple, the State at the time of the ratification of this Declaration, and although include this instrument for the creation of articles related to indigenous peoples in the 2008 Constitution, should have been aware that the isolated Tagaeri people and the other isolated are

minorities that need greater protection from the State to maintain a life in peace. However, the peoples in isolation, including the Tagaeri, not being 100% protected by its State may make use of international instruments to which Ecuador is a party, to enforce in any way respect for its rights. On the other hand, the fact that the Tagaeri people live in isolation is an obstacle since they cannot claim their rights themselves or cannot make their needs known. However, national, and international organizations, NGOs, or even people who wish to protect the isolated can claim the protection of the rights of the uncontacted in international organizations and using the regulations of these once domestic judicial remedies have been exhausted to protect the human rights of the isolated. An example of this will be presented below when describing the third international instrument that is the Inter-American Human Rights System.

The Inter-American Human Rights System is the most relevant international mechanism in the case of protection of the rights of the people in Isolation Tagaeri, it must be clear that these instruments were created by the Organization of American States (OAS) and Ecuador has ratified the entire System since 1977 as well as different protocols and conventions that the OAS has created (Ponces Villacís, 2005). The System is composed of three essential bodies for this case: the American Declaration on the Rights of Indigenous Peoples, which contains specific regulations on peoples in isolation; the Inter- American Commission on Human Rights, which in turn created in 2013 a report entitled: Indigenous peoples in voluntary isolation and initial contact, recommendations for full respect for their human rights; and the Inter-American Court of Human Rights, which has conducted relevant cases on respect for and reparation for the lives of Ecuadorian indigenous communities such as the Sarayaku and Waorani. In this way, it will be described how these instruments could, in the same way, be used for the State to create internal policies for the full respect of the rights of the Tagaeri people and other peoples in isolation.

The American Declaration on the Rights of Indigenous Peoples contains 41 articles that are divided into six sections: indigenous people's scope and scope; human and collective rights; cultural identity; organizational and political rights; social, economic and property rights; and general provisions. The following items may be considered:

Article 3: by virtue of this right, they freely determine their political status and freely pursue their economic, social, and cultural development" (American Declaration on the Rights of Indigenous Peoples, art. 3, 2016). Once again, an international instrument emphasizes that indigenous peoples have the right to choose their determination and, in this case, the Tagaeri people have every right to live in isolation, with the Ecuadorian State providing them with rights for a dignified life and respect for their decision. In addition, the Declaration welcomes the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169, which states in article 5, "Indigenous peoples and individuals have the right to the full enjoyment of all human rights and freedoms. Fundamentals,

recognized in the Charter of the United Nations, the Charter of the Organization of American States and in international human rights law" (American Declaration on the Rights of Indigenous Peoples, art. 5, 2016). Emphasizing to its member States that there are international regulations that can participate in domestic regulations to comply with the protection of indigenous rights.

Art.6- "Indigenous peoples have collective rights indispensable for their existence and well-being. In this regard, States recognize and respect the right of indigenous peoples to their own cultures; to use their lands, territories, and resources. States shall promote, with the full and effective participation of indigenous peoples, the harmonious coexistence of the rights and systems of population groups and cultures" (American Declaration on the Rights of Indigenous Peoples, art. 6, 2016). Once again, the right of indigenous peoples to their lands, territories and resources is emphasized, and the State is the promoter of this right so that they can live in harmony. This may be an article that the Ecuadorian State considers in terms of creating a solid article on the territories of peoples in isolation.

Article 9: "States shall fully recognize the legal personality of indigenous peoples, respecting indigenous forms of organization and promoting the full exercise of the rights recognized in this Declaration" (American Declaration on the Rights of Indigenous Peoples, art. 9, 2016). Ecuador ratified this Declaration, and is therefore accepting that indigenous nationalities, including the Tagaeri people and other peoples in isolation, have legal personality. That is, the Tagaeri people are willing to be creditors of national and international rights and obligations; thus, it has the capacity to assert its rights within the framework of international law through its legal systems (Herdegen, 2017). In this way, this Declaration is a tool that the Tagaeri people, through third parties, can use to ensure that the State is obliged to protect their rights if it does not do so at the national level.

Article 10: States shall not develop, adopt, support or favor any policy of assimilation of indigenous peoples or destruction of their cultures" (American Declaration on the Rights of Indigenous Peoples, art. 10, 2016). This article highlights the Tagaeri's desire to remain in isolation, an aspect that is part of their cultural identity. Article 13 also states that "Indigenous Peoples have the right to have all their ways of life recognized and respected... forms of social organization, beliefs, values, clothing, and languages, recognizing their interrelationship, as established in this Declaration" (American Declaration on the Rights of Indigenous Peoples, art. 13, 2016). Based on these articles, the state should take strong measures to keep the Tagaeri people in isolation, despite them in the Constitution the state allows that if its territory is of national interest, it could be exploited, which would consequently lead to these people having to suffer forced assimilation and a loss of their culture. Also, the project of Block 43 – Ishpingo Field is not exactly in the ZITT but if close to it and near areas covered by them, this could cause the peoples in isolation to have a direct approach or encounters with other cultures or "settlers" although it is not what they want for their community, for



something they have lived long time in isolation and have shown no desire to be contacted.

Article 11: "Indigenous peoples have the right not to be subjected in any way to genocide or attempted extermination" (American Declaration on the Rights of Indigenous Peoples, art. 11, 2016). An example of the use of the Declaration in Ecuador's domestic legislation is the inclusion of this article in article 80 of the COIP, which has been mentioned above. The Ecuadorian State has an obligation to protect the Tagaeri people and other peoples in isolation from outsiders who kill them in clashes. Unfortunately, this case has already occurred on several occasions, the murder of several isolated people at the hands of waoranis or when oil and logger workers shoot the uncontacted for fear of being attacked. However, these cases have gone unpunished, and the State has done nothing to repair the damage considering that there is a current regulation that punishes these acts.

Article 19: States shall establish and implement assistance programs for indigenous peoples to ensure such conservation and protection, without discrimination" (American Declaration on the Rights of Indigenous Peoples, art. 19, 2016). As previously demonstrated, the consequences of oil activity in an area are several and regardless of whether the indigenous communities maintain distancing from the oil wells, it also affects them. The same can happen with the Tagaeri people who live in and travel through territories near the Ishpingo field oil project, and the consequences can be even more devastating for them because they are not used to the kind of noise, pollution and other factors that can affect their daily lives that they knew. Therefore, the State must ensure that there are no effects on people in isolation because of oil companies operating in nearby areas and must create a regulation that prohibits any type of extraction of non-renewable resources, not only in the ZITT but in territories that they travel through to survive.

Article 25: They also have the right to use or possess territories that they have traditionally occupied or used. To this end, States must legally recognize and protect such territories and resources, and such recognition shall duly respect the customs, traditions and land tenure systems of the indigenous peoples concerned" (American Declaration on the Rights of Indigenous Peoples, art. 25, 2016). This is one of the important items to be taken into consideration because the territory designated by the Ecuadorian State to peoples in isolation is not correctly delimited and does not consider the areas that they travel at various times of the year for their subsistence. Therefore, based on this article, the State is obliged to protect the territory and resources they use and, not only the one they inhabit, in this way it will be able to protect the customs and traditions of the isolated.

Article 26 of the Declaration expresses itself on the rights of peoples in isolation or initial contact and states:

1. "Indigenous peoples in voluntary isolation or in initial contact have the right to

remain in that condition and to live freely and according to their cultures" (American Declaration on the Rights of Indigenous Peoples, art. 26, 2016).

2. "States shall adopt appropriate policies and measures, with the knowledge and participation of indigenous peoples and organizations, to recognize, respect and protect the lands, territories, environment and cultures of these peoples, as well as their individual and collective life and integrity" (American Declaration on the Rights of Indigenous Peoples, art. 26, 2016).

It should be borne in mind that it is the only international instrument that specifically expresses indigenous peoples in isolation, suggesting to the States in which these peoples live that they be protected by their vulnerability and that their condition of isolation be respected. In the Ecuadorian Constitution at the end of article 57 it is expressed about the peoples in isolation, in article 407 it is declared about the exploitation of non-renewable resources in the Tagaeri – Taromenane Intangible Zone, and in article 80 of the COIP it is expressed about the genocide of these peoples. Despite these, articles 57–407 of the Constitution do not focus directly on the territorial, environmental and cultural rights required by these peoples, considering that their needs are different from those of other indigenous communities. Therefore, the State should take these articles should create regulations that are aimed directly at indigenous peoples in isolation and their needs. For example, in 2006 Peru created the Law for the Protection of Indigenous or Native Peoples in Isolation and in a Situation of Initial Contact, the regulations are based on the three international instruments mentioned in this part. In addition, it establishes a special cross-sectorial regime for the protection of Amazonian peoples in isolation, thus protecting the rights to life and health to safeguard their existence and integrity. It also defends its state of isolation; the fact that its territory is considered an indigenous reserve, determines the State's obligations to respect its rights, and something important is that it defines the transitory and relative intangibility of indigenous reserves. However, the regulations do not recognize property rights and allow the exploitation of hydrocarbons for national interests in the territory of the isolated (Huertas Castillo, 2018). On the other hand, the Peruvian State created the Special Transectoral Regime, which is a set of public policies that protect the PIAV and that are coordinated with governments national, regional, and local, and with civil society to comply with the protection of these peoples as well as with the creation of indigenous reserves that are a fundamental part to protect the integrity of the PIAV (SPDA Environmental News). As can be shown, using the international instruments mentioned in this paper it is possible for the Ecuadorian State, like Peru, to create a regulation aimed at peoples in isolation who are a minority that is threatened by oil extraction.

Article 34: For these purposes, due consideration and recognition shall be given to the customs, traditions, norms, or legal systems of the indigenous peoples concerned" (American Declaration on the Rights of Indigenous Peoples, art. 34, 2016). Finally, this article should also be considered by the Ecuadorian State because as had been stated before, a certain Waorani community had violent

encounters with the isolated Tagaeri – Taromenane that left dead on both sides. In addition, the Waorani abducted two girls belonging to the group of indigenous people in isolation who have so far been at the hands of the State. Beyond the above, there has been no intervention by the State to repair this fact or to do justice, considering that the population of indigenous people in isolation is small and even more so if we are talking about the Tagaeri people. However, the State should oversee resolving these conflicts, always respecting the customs and traditions of the indigenous peoples, in an efficient manner so that in the future there will be no major altercations and, as in the case of the Waorani/Tagaeri– Taromenane clashes, there will be no extermination of the latter.

Once the normative of the Declaration that could serve as a basis for the creation of rights for the Tagaeri people and other isolated peoples in the Ecuadorian State are known, it will proceed to present to the Inter-American Commission on Human Rights that, being its primary task, to promote the observation and defense of human rights (OAS, 2021) has provided an especially useful tool on peoples in voluntary isolation and initial contact.

The report entitled: Indigenous peoples in voluntary isolation and initial contact, recommendations for full respect for their human rights; States that the IACHR (Inter-American Commission on Human Rights) believes that one of the means that truly ensures full respect for the rights of the peoples in voluntary isolation is the protection of their lands, territories, and natural resources. The IACHR also believes that the State must fully respect the choice of these peoples for remaining in isolation and for non-contact (IACHR, 2013). Thus, the UN Special Rapporteur on human rights and fundamental freedoms of indigenous people, James Anaya, says the following: "the principle of non-contact must be respected, which implies implementing a public policy that protects their living spaces and preserves them from pressures from extractive companies, the illegal logging of wood, and the unauthorized settlement in the area" (Anaya, 2013). These two points must be considered when creating internal policies to safeguard the human rights of the Tagaeri and other isolated communities, given that the main threats against the rights of these peoples are both direct and indirect contact with external society because of non-respect for non-contact and the incorrect protection of the territories where the peoples in voluntary isolation live or travel (IACHR, 2013). Therefore, if the State does not respect the choice of these peoples by non-contact, it would be endangering the rights of these peoples and could even lead to the loss or disappearance of their culture. Thus, the Commission considers that the principle of non-contact should be considered as the manifestation of these peoples to self-determination (IACHR, 2013) and that is why the State must respect and protect the way of life of indigenous peoples in isolation along with their territories that are an elementary part of their survival.

Finally, the IACHR through the report makes recommendations for full respect for the rights of the peoples in voluntary isolation in their States. First, the Commission suggests that immediate

measures are necessary for the protection of the rights of these peoples and expresses its willingness to cooperate with States, indigenous organizations, and other civil actors in the internal implementation of the following recommendations of the report (IACHR, 2013):

- Adopt specific legislation and regulations on the protection of the rights of the PIAV, including the right to life and physical and cultural integrity, the right to remain isolated, and the rights to their lands, territories, and natural resources (IACHR, 2013).
- Adopt in the domestic legal framework appropriate and culturally appropriate judicial remedies for the protection of the rights of the PIAV, which consider representation through indigenous organizations or other actors who wish and are in a capacity to safeguard their rights.
- With regard to the protection of the territory, it proposes to use methods that do not involve a risk of contact and to delimit, demarcate and title the ancestral territories with the presence of the PIAV, on the basis of multidisciplinary and culturally appropriate mechanisms and studies that take into account the areas of displacement and the specific situation of the people or peoples concerned (particularly nomadic peoples) semi-nomadic and itinerant farmers, and with the participation of all relevant State entities *ibid*.
- Establish effective protection mechanisms with the necessary material resources to prevent in practice third-party access to the territories of peoples in isolation, including their buffer zones, and which provide for appropriate sanctions for those who violate them and, if applicable, that such sanctions are culturally appropriate.
- In the event of any exception to the prohibition of access to the territories of indigenous peoples in isolation or initial contact, establish them in advance and clearly in the legislation, which must be aimed at providing greater protection of the rights of indigenous peoples or at dealing with exceptional emergency situations. Refrain from considering exceptions that appeal to the public interest in a general manner *ibid*.
- Recognize through legislative or administrative measures the rights of indigenous peoples in voluntary isolation over the natural resources found in their territories *ibid*.
- Refrain from granting licenses or authorizations to carry out activities related to the extraction of natural resources in areas with the presence or transit of indigenous peoples in voluntary isolation, including buffer zones *ibid*.
- Adopt and implement specialized and culturally appropriate prevention and contingency protocols for the health of indigenous peoples in voluntary isolation and initial contact, considering the level of isolation or contact of the people or community concerned.
- Adopt actions aimed at ensuring respect for and guarantee of the principle of non-contact of peoples in isolation by any person or group, considering the adoption of protection zones, as well as the prohibition and appropriate punishment of forced contact, including that of

religious organizations (IACHR, 2013).

The recommendations made by the IACHR through the report are based on important international norms, which are: the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention No. 169, and the American Declaration on the Rights of Indigenous Peoples, protection guidelines for indigenous peoples in isolation and in initial contact in the Amazon region, the Gran Chaco, and the Eastern Region of Paraguay, and other international covenants and conventions on the rights of indigenous peoples. For this reason, these are recommendations, which although some have already been considered by the Ecuadorian State for the internal regulations on the rights of peoples in isolation, should be deepened in all points for greater respect in the field of territories and natural resources in favor of the human rights of the peoples in voluntary isolation.

Finally, the Inter-American Court of Human Rights is the regional court for the protection of human rights that aims to interpret the American Convention to settle contentious cases and apply the mechanism for monitoring sentences (Inter-American Court, 2021). In this case it was valuable to refer to this judicial institution since it would be a fundamental international instrument to make the Ecuadorian State comply with safeguarding the rights of the Tagaeri people and other isolated in case during the oil activity in the Ishpingo – Campo field 43 violations of their rights are committed by Petroecuador, which is the company in charge of oil extraction in the area. It was also necessary to express oneself about the Court because in September 2020 the IACHR presented to the Inter-American Court the case of indigenous peoples in voluntary isolation Tagaeri – Taromenane with respect to Ecuador, being the first case to deal with issues of indigenous peoples in isolation.

The case presented refers to the international responsibility of the Ecuadorian State for a succession of violations of the rights of indigenous people in isolation, within the framework of natural resource extraction projects that affect their way of life, their natural resources and territories; similarly, it refers to three incidents of violent deaths of members of the Tagaeri – Taromenanes groups that occurred in 2003 – 2006 and 2012, and to the non-existent protection measures in relation to two girls allegedly Taromenanes who were forcibly separated from their community during the acts of violence that arose. The IACHR's presented report details the state's obligations regarding the territorial rights of indigenous peoples in isolation, their normative regulation, the manner of recognition through the creation of the nature reserve, and the level of protection of indigenous property in relation to third parties with interests in the use and exploitation of their territories. Given these reasons, the IACHR concludes that (IACHR, 2020):

As for the Tagaeri – Taromenane ancestral territory, the Commission determined that the Tagaeri – Taromenane ancestral territory exceeds the ZITT, and the Ecuadorian State has not indicated conclusive evidence to show that these peoples are only in this delimited area. In addition,

the State has not considered the seasonal planting and harvesting patterns of these peoples, which caused them to have contacts, affected their subsistence and the delivery in concession and exploitation of their intangible territories to oil companies. In *The Merits Report*<sup>3</sup>, the IACHR examined the State's obligations regarding the territorial rights of these peoples in isolation, such as normative regulation, the form of recognition through the creation of a nature reserve, and the level of protection of indigenous property about third parties with interests in the use and exploitation of the territories *ibid*.

Taking into account what has been defined in the investigations, the IACHR determines that "the ZITT is not a legal figure that meets the conditions of a title of full ownership in relation to access, control, claiming and use of the territory and its resources, as well as protection against any possible contact of the State and third parties." the reason is that loggers and settlers have illegally intervened in this area, which has led to a violation of the State's obligation to guarantee the rights of these peoples and effectively control that the Tagaeri – Taromenane have the dominion and use of their territory without any interference by third parties. At the same time, the IACHR found evidence of pressures exerted by companies to reduce the protection of the territory of the Tagaeri – Taromenane peoples, in the same way this has generated contacts between isolated and other people and has caused conflicts that have not been properly prevented by the State. Similarly, the IACHR determined that the Ecuadorian State has not demonstrated that recourse in its legislation has the capacity to respond to the questioning of the designation of the ZITT with respect to the characteristics required by the American Convention to protect the rights of the peoples in voluntary isolation. Furthermore, it states the following with regard to the ZITT: "Faced with the creation of a nature reserve that coincides in part with the territory of these indigenous peoples, the Commission considered that it was not clear the legal nature of that territory or the particular implications that the protection of the same should have had at the time of the creation of a nature reserve, particularly when it would be susceptible to economic exploitation" (IACHR, 2020). Considering the above, the Commission determines that the appeals lodged are not clear in their ability to handle the peculiar situation of the isolated; The IACHR also defined that the Ecuadorian State has not offered any judicial remedy to propose territorial claims for these peoples, considering specific circumstances.

The IACHR also concluded that "the indications of lack of due diligence in criminal investigations, as well as the renunciation of the punitive power of the State in an unjustified manner, violated the rights to judicial guarantees and judicial protection" (IACHR, 2020). The Commission in the report also refers to the violent deaths of members of the Tagaeri – Taromenane groups in 2003,

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<sup>3</sup>The so-called merits stage occurs when the IACHR decides whether there was a violation of human rights in the case under consideration. This stage ends with the approval of a substantive report that if it concludes that the facts of the case constitute human rights violations, the report will conclude with recommendations to the State (OAS, 2021).

2006 and 2013 and says that they were the result of contacts between third parties and the peoples in voluntary isolation because of the inefficient guarantees to prevent other people from accessing the territory. Similarly, he mentions about the separation from his community two girls belonging to, it is not clear whether they are Tagaeri or Taromenane, in the violent acts *ibid*.

In conclusion, the Commission considers that Article 57 (21) (2) of the Constitution of Ecuador, which in principle protects the intangibility of the territories of the isolated, based on the level of international protection required by the peoples in voluntary isolation. Despite this, the protection of the peoples in voluntary isolation by the State is interrupted or overshadowed by article 407 of the same Constitution; Given this, the IACHR established that: "taking into consideration the principle of non-contact and the self-determination of the peoples in voluntary isolation, it is not possible to intervene their territories for economic use when this may come into tension with the safeguarding of their subsistence" (IACHR, 2020). Furthermore, although ZITT was maintained as intangible in the process of authorizing two mining projects, Tagaeri – Taromenane Zone delimitation was not consistent with the territory ancestrally occupied by the peoples in voluntary isolation. The Commission concluded that, the legal protection of the intangibility was not effective and that, in its application to the specific case, that regulation failed to guarantee that any restriction on the ownership of the peoples in voluntary isolation was compatible with the applicable standards *ibid*. The Commission also determined that the Ecuadorian State is responsible for the violation of the rights established in Articles 4.1 – 5.1 – 7.1 – 8.1 – 11.2 – 19 – 21.1 – 22.1 – 25.1 and 26 of the American Convention on Human Rights in relation to the obligations set forth in its articles 1.1 and 2. For all the reasons mentioned in the Merits Report, the IACHR recommends to the State of Ecuador the following *ibid*:

1. Identify and correctly delimit the lands and territories owned by the Tagaeri and Taromenane, granting them a registerable title with characteristics of full dominion. Properly determine the concessions granted that overlap or that may affect the territory of the peoples in voluntary isolation and provide the necessary corrective measures to guarantee the full exercise of their collective property, including the necessary measures to ensure strict compliance with the principle of non- contact in accordance with the standards indicated in the report (IACHR, 2020).
2. Continue the criminal investigation of the acts of violent death in 2013 in a diligent, effective manner and within a reasonable time to clarify the facts in a complete manner, identify all possible responsibilities and impose the appropriate sanctions with respect to the human rights violations declared in this report. To report on the status of the investigations into the events of 2003 and 2006, including the possible results of the proceedings in the indigenous justice system

and, if necessary, to take the necessary measures to prevent impunity for such acts *ibid.*

3. Provide non-repetition mechanisms that include a clear normative and institutional framework appropriate to the reality of the peoples in voluntary isolation in matters of collective property and their rights under the American Convention in accordance with the standards indicated in the report. To implement normative or other measures necessary for article 407 of the Constitution to be applied and to be interpreted in harmony with the inter-American standards developed in this report and to establish health and health management protocols in the face of exceptional contact situations, as well as to strengthen early warning systems on risks to the rights peoples in voluntary isolation and conflict prevention measures in these contexts *ibid.*
4. Among other recommendations aimed at the protection of girls separated from their communities and the prevention of violent acts by the intrusion of third parties into Tagaeri territory – Taromenane *ibid.*

In conclusion, the three international instruments dealt with at this point have been ratified by the Ecuadorian State and therefore it has the responsibility to comply with the regulations international established. Therefore, the following proposals are based on the international standards, on the ruling of the Inter-American Commission on Human Rights regarding the report submitted to the Inter- American Court of Human Rights on indigenous peoples in voluntary isolation Tagaeri – Taromenane, and on the example on the integration of international instruments into Peru's domestic regulations.

First, it is necessary for the Government to rectify article 407 of the Constitution of Ecuador 2008, which states: "The extraction of non-renewable resources is prohibited in protected areas and in areas declared as intangible, including forestry. Exceptionally, these resources may be exploited at the substantiated request of the Presidency of the Republic and after a declaration of national interest by the National Assembly, which, if it deems it appropriate, may call for a popular consultation", but the part that reads: "All types of metal mining in any of its phases in protected areas must remain urban centers and intangible zones" (Constitution of Ecuador, art. 407, 2020). The part that should be deleted is as follows: "Exceptionally, these resources may be exploited at the reasoned request of the Office of the President of the Republic and following a declaration of national interest by the National Assembly, which, if it deems it appropriate, may call for a popular consultation". Since, this article contradicts article 57 of the same Constitution in which it is proclaimed that the territories of the isolated are of irreducible and intangible ancestral possession, and therefore in this area all types of extractive activity will be forbidden. In addition, relying on the international protection that the



peoples in voluntary isolation require and, considering the principle of non-contact and self-determination of these peoples; it is not acceptable for their territories to be intervened to obtain economic benefits in a simple way, and even more so if this means endangering the lives of the Tagaeri – Taromenane peoples. In fact, David Fajardo Torres activist of the Yasunidos collective refers to this point and says that: “in the country the economic model should be transformed, especially the productive matrix, betting on investment in infrastructure for tourism in general and especially for scientific tourism that has the possibility of generating good income, he tells as an anecdote that some time ago he was in a trial of the Constitutional Court of Ecuador for a protection action for the Cedros Protective Forest and that one of the witnesses was a biologist from the United States who was doing his studies for his PHD in this forest and that his study meant an investment of \$ 500.000 dollars for six months in Ecuador, the biologist alleged that if Ecuador invests and dedicated itself to this type of tourism it would obtain high profits because it is the most biodiverse country on the planet in relation to its territory. On the other hand, David states that this is a potentiality that Ecuador has because it also implies the conservation of ecosystems that are of utmost importance for the subsistence of all” (Fajardo Torres, 2021). This would mean that, oil extraction in the Ishpingo – Block 43 field would only be an easy way to meet the economic needs of the State due to past mistakes. In short, the Government must urgently ratify the article 407 of the Constitution because first it is unconstitutional and second it is an open door for violations of the rights of the Tagaeri people and other peoples in isolation.

Secondly, the Ecuadorian State, through the Human Rights Secretariat, has the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation, which has the task of protecting their rights through the formulation, dissemination, and implementation of policies at the national level. However, it has been evident through this investigation that the programs or projects carried out by the Undersecretary have not been of importance for the correct protection of the rights of the Tagaeri and other isolated, it could be argued that it may be the product of pressure from oil companies on the State to ignore the issue of the peoples in voluntary isolation. Therefore, it could be said that it is an institution that does not have sufficient resources for research through the Directorate of Monitoring and Follow-up of Protection of Indigenous Peoples in Isolation or with the support of the Government for the creation of national policies through the Directorate of Promotion and Policy for the Protection of Indigenous Peoples in Isolation. Therefore, the Government must derive a budget for this Undersecretary so that in this way the investigations they carry out are accurate and thus the rights of the Tagaeri and other isolated can be protected; the State should also support and participate in the creation of national policies aimed at the protection of peoples in isolation. Finally, the Escazú Agreement on this issue will be of utmost importance since it will be the tool for NGOs or activists for the rights of nature that derives from the rights of these peoples to have access to information collected by this Undersecretary to be a support to safeguard the rights of these peoples and even

create national policies for it.

In the above- mentioned, it is necessary for the Ecuadorian State to create public policies exclusively aimed at the protection of the Tagaeri people and other peoples in isolation since the current Constitution only refers once in the final part of article 57, this regulation being insufficient to safeguard these peoples; this has been evident with the permits for the construction of oil wells in the Ishpingo field – Block 43 territory near the Buffer Zone and ZITT, which can cause violations of the rights of the isolated. For example, we could follow the model of the Special Trans-Sectorial Regime created by the Peruvian State to protect the peoples in voluntary isolation, which is based on the international regulations of indigenous peoples pronounced in this document and to which Ecuador is a party. For the creation of public policies that safeguard the rights of the Tagaeri and other isolated, it would also be of the utmost importance for the State to carry out new studies on the territories where the Tagaeri and other peoples in isolation live and transit, since as we have been able to demonstrate in this research the ZITT does not take into account the territories traveled by the isolated since it is a nomadic people who occupy certain territories at different times for their subsistence and in addition the investigations have also shown that possibly these transit the Buffer Zone and even certain areas that are already part of Oil Blocks. Therefore, it would be necessary for the ZITT also to receive territory transited by peoples in isolation so that there is total protection of these peoples, and likewise the reform or elimination of Article 407 would help so that in the territories of the isolated there is no type of extractives activity that could affect the daily life of these peoples.

Finally, if the government will take into account the international regulations for the creation of national policies that protect peoples in isolation or the proposals made in this document, it would also help to stop the borders of oil extractives and other extractive activities that are increasingly taking power in the country and an example of this is the current oil project of the Ishpingo Field – Block 43 that was not thought to be going to be intervened by its proximity to the Intangible Zone Tagaeri – Taromenane. Likewise, it could help to protect other indigenous nationalities that live in danger by the oil companies and to protect the rights of nature and those who protect it since it is an issue linked to the protection of the rights of all indigenous peoples. And as stated earlier, oil is only a quick economic source that destroys lives, but there are a variety of proposals that can replace the country's economic model.

#### **4.1.1 NGOs**

In the same way it will be explained how non-governmental organizations important actors are

when, in this case, the protection of the rights of the Tagaeri people or other peoples in isolation. It will also be announced the work that three international NGOs have done in the country and what they could carry out in favor of the rights of the Tagaeri people. Also, it will describe and make known the work that the Collective Yasunidos; one of the most important organizations with the greatest impact in Ecuador on issues of environmental rights and the rights of indigenous peoples; it has done so in terms of protecting the rights of the peoples in voluntary isolation.

Before starting, it is important to emphasize that most NGOs base their work on international regulations, such as those that have been discussed in this research, to provide legal assistance or help through programs and projects in this case to the peoples in voluntary isolation. Similarly, many of the times it is the NGOs that end up being the protectors or defenders of the rights of indigenous peoples since the State does not fulfill that role; likewise, they become the strongest ally of nationalities, communities, and indigenous peoples to claim and enforce their rights, whether nationally or internationally. Therefore, the Escazú Agreement to which Ecuador is a party will be one of the primary instruments used by non- governmental organizations, collectives, and environmental human rights defenders that, as is well known, they are rights combined with the rights of indigenous people; since, this regional treaty will allow access to real and current environmental information, as well as establish provisions for the protection of environmental protectors. In other words, the Escazú Agreement will facilitate and expedite the work of NGOs, collectives, groups, defenders, and others in protecting the rights of the environment and therefore of indigenous peoples.

However, IWGIA is the International Working Group on Indigenous Affairs that has created a network of researchers and human rights activists who are responsible for documenting the situation of indigenous peoples and demanding the improvement of their rights. This NGO could be a key instrument when it came to protecting the rights of the Tagaeri people since it has already cooperated with indigenous institutions and international organizations to promote the recognition and implementation of indigenous rights, an example of which is the partnership with the United Nations that has allowed it to create and implement projects for indigenous groups in order to connect local, regional, and international demands; and even IWGIA has observer status as an NGO in the UN take advantage of this condition to favor indigenous peoples. On the other hand, this NGO has been one of the greatest allies of different Amazonian indigenous peoples of Ecuador when it comes to claiming their rights, such is the case of the statistics and censuses that it has documented with INEC on indigenous peoples or has supported in lawsuits against the Ecuadorian State for abuse of rights through advice on how to carry out these acts.

The IWGIA organization, having already had an extensive history of research on the history and population data of indigenous peoples, could work together with the Undersecretary for the

Protection of the peoples in voluntary isolation or with the Directorate of Monitoring and Follow-up of Protection of the peoples in voluntary isolation to carry out an investigation on the number of inhabitants in isolation and even more importantly on the territories that they transit through during periods. This would be of great help when creating an internal policy aimed at the PIAV and to rethink the limits of the ZITT, in this way IWGIA would facilitate the work of the State and support indigenous peoples in the protection of their rights. On the other hand, being an IWGIA observer of the UN-ILO and having consultative status in United Nations Economic and Social Council would be a key instrument to present to these bodies the case of peoples in isolation, the need for better international standards that protect their rights and the development of programs or projects that help safeguard their rights. Also, if IWGIA worked together with other organizations for the protection of the rights of the Tagaeri people and other isolated people, they could have greater international reach and even greater national pressure for the State to comply with protecting indigenous people in isolation from the country.

Second, Amazon Frontlines is a Non-Governmental Organization that focuses on the protection of water in the Amazon basins of Ecuador, Peru, and Colombia, it has already worked in the country with different Amazonian indigenous nationalities such as the Waorani, Secoya and Siona to ensure that these communities, despite the oil pollution in their territories, have access to safe drinking water and therefore access to health. In addition, Amazon Frontlines in 2015 created one of the current important organizations that protects the Amazon and is made up of four indigenous nationalities that are the Cofán, Secoya, Siona and Waorani, these came together as indigenous resistance to protect the jungle, their territories, and the planet from oil pollution in the region and many other problems that these peoples go through. For example, in recent years Alianza Ceibo along with Amazon Frontlines have protected with the help of more than 200 indigenous guardians, 500.000 hectares of forest, also this territory was mapped by 50 indigenous cartographers to make a historical record of what exists in these areas; they were also involved in the court ruling to defend 180.000 hectares of megadiverse forest in the Waorani territory of oil extraction and achieved a legal precedent to preserve 3 million hectares of planned oil auctions (Alianza Ceibo, 2019). Amazon Frontlines is an organization that provides spaces for indigenous leaders and their people to build legal strategies to defend their rights with the help of their legal team that is responsible for creating the final legal aid documents.

Amazon Frontlines is an NGO that knows well the task of protecting the environment, territories, and indigenous peoples in the country, and works together with these communities so that they directly make their needs known and protect their rights. One of the proposals at this point would be for the State, taking Alianza Ceibo as an example, to create a group of park rangers to work alongside the indigenous guards protecting thousands of hectares of forest, including the boundaries

of the ZITT to ensure that strangers do not penetrate the place. Furthermore, now that the Escazú Agreement has entered into force, it would be necessary for the State to provide protection to these forest guardians. On the other hand, Alianza Ceibo with the sponsorship of Amazon Frontlines developed a mapping of the Amazonian territory where the four nationalities live and was a work developed by 50 Amazonian indigenous people who know the territory perfectly. Another proposal was that these organizations work in support of the Undersecretary for the Protection of the PIAV to create a new map of the ZITT including the places traveled by the isolated. In this way, the State would have cleared the panorama of the true Tagaeri - Taromenane territory to in the future prohibit extractive activities in the area. One point that could also be considered was that the research carried out by the Organization in collaboration with indigenous peoples demonstrated the real needs of peoples; in that way, the Undersecretary for the Protection of the peoples in voluntary isolation could consider this documentation to create internal policies that truly protect these peoples. As well as the Undersecretary could work with the Waorani who part of Alianza Ceibo is to learn a little more about the history, way of life and needs of the Tagaeri people since they are the only ones who have had some contact with the isolated. Finally, Amazon Frontlines assures that it will continue to work with indigenous peoples so that they are legally assigned the rights that correspond to them, and not he is wary that he will support in every possible way the protection of the Tagaeri people and others isolated from the oil company that is settling in the Ishpingo field.

Third, Amazon Watch is a NGO that is made up of environmental and human rights activists and is associated with indigenous and environmental organizations. His work has focused on developing campaigns for human rights, corporate responsibility and the preservation of the ecological systems of the Amazon; to exhaust all instances for a global society in which Governments, businesses and civil society respect the collective rights of indigenous peoples to free, prior and informed consent to any activity affecting their territories and resources; and has a strong commitment to indigenous communities to safeguard their lives, culture, and lands according to their worldview and needs.

Amazon Watch through its working group has conducted numerous investigations on extractives and abuse of rights of Amazonian indigenous peoples in Ecuador, and on its news, pages have published its reports in the form of complaints against governments, states, transnationals, and other institutions of power. For example, the Organization was one of the entities that supported indigenous communities from the beginning to claim the oil pollution caused by Chevron – Texaco, and helped the communities file a lawsuit in the Court of the Southern District of New York, under the figure of *Class Action*<sup>4</sup> against Texaco.

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<sup>4</sup> They are a non-traditional litigation procedure that allows a representative with typical claims to sue or defend on behalf of and appear in court by a class or group of people when the issues are of common interest to people so numerous that they make it impracticable to bring them all in court (Vazquez, 2017).

Thus, Amazon Watch through its research could support the Undersecretary for the Protection of peoples in voluntary isolation to make the institution aware of peoples in voluntary isolation to have a clear picture when it comes to creating policies that protect their rights. More importantly, through the Organization's publications, it could put pressure on the Ecuadorian State to take charge of protecting the Tagaeri people and other peoples in isolation or for it to be known at the international level that the Tagaeri could be endangered by oil activity in the Ishpingo field that is close to their territory and so the international organizations use their power to protect this group or also pressure Ecuador to comply with what is promised in international regulations.

Finally, the Yasunidos Collective is an organization of environmental activists that was established in August 2013 after former President Rafael Correa discontinued the Yasuní ITT initiative. The organization was created to prevent the oil exploitation of the Yasuní National Park in the province of Orellana (GK, 2019). It is called as a nonpartisan, autonomous and self-managing social expression with different ideals and practices; they have declared a permanent minga (collective work for a common purpose) to consolidate the campaign so that oil is kept underground and thus transform the extractives model of the State. In addition to this, the Organization has extended its ideals, so which is currently in several provinces of the country to fight with cases that interfere with mining, river pollution, agribusiness, and inequality (Yasunidos). Yasunidos is recognized for being an entity with a strong organizational structure, which has carried out various pacifist activities to protect the environment, the fauna - flora and the humans that surround it. He has also built a set of communication skills, so he has gained high popular support that has possibly been the largest an organism has had in Ecuadorian history (Galvez & Bonilla, 2014, p. 90).

For different reasons the Collective has been one of the organizations that has had the greatest impact on the issue of oil exploitation in the Ecuadorian Amazon, and especially in the Yasuní, so the entity since its inception has insisted that the right of citizen participation should be taken into account and it should be the people who decide whether or not to give exploitation in the territories , especially indigenous peoples should decide whether any kind of extractives should take place within their territories. For this reason, the collective began collecting signatures at the national level to be able to proceed with a popular consultation in which it could be decided whether they agreed with the oil exploitation in the Yasuní ITT National Park; however, the consultation could not take part due to lack of signatures and international support. Consequently, Yasunidos decided to file an action before the IACHR and since 2014 supported the collection of signatures for more popular consultations on extractives at the national level and, an example is the popular consultation by Quinsacocha to stop mining extraction; in addition, Yasunidos advised other communities so that they can deal with mining and oil as was the case with Intag (GK, 2019).

Similarly, the Organization has worked on the development of important actions that could be

separated into two groups: the first, the so-called indoor actions that constitute discussion forums, conferences, and book launches, among other academic activities that have allowed the collective to make its ideas known and invite dialogue. And second, acts of public protest that can be press conferences, street actions that include the collection of signatures, mass marches, and temporary occupations of buildings where anti-environmentalist meetings have been held. This group can include the legal actions to which they have been a party, in which they have filed actions in international instruments against either oil companies or the Ecuadorian State, for the issue of extractives and the violation of environmental and human rights (Galvez & Bonilla, 2014, pp. 91-92). Yasunidos currently seeks an impact on public decisions and public opinion, trying to propose alternatives to a mode of production based on the extractives of natural resources (Yasunidos, 2020, p. 125), and what the Organization wants to achieve is that the alternatives are assumed as public policy according to the rights of nature, indigenous rights, and other human rights (Bernal, 2020, p. 125).

As for the protection of the rights of the Tagaeri people in, Yasunidos from the beginning has fought and filed lawsuits with the State to protect the ZITT against the oil extractives that develops near this territory. In addition, its members know that the peoples in isolation have a strong connection with the environment, so they have also expressed their dissatisfaction with the government for neglecting these issues so that oil extraction takes precedence. In this research we interviewed two environmental activists who are an important part of the Yasunidos Collective, for their hard work to protect the rights of nature and indigenous peoples, they commented on what the Collective has done for people in isolation and important actions they have taken.

Pedro Bermeo, spokesman and in charge of the legal area of Yasunidos, commented that through investigations that the Collective and other organizations have carried out on the subject they have been able to conclude that the people in isolation Tagaeri – Taromenane are in imminent danger for a long time, but their investigations go back since the beginning of 2003 given that at the time there were several isolated attacks on third parties that roamed their territory and , especially illegal loggers or oil workers. Given this, the Collective has been aware that the struggle to protect the rights of indigenous peoples in isolation would be complex and, therefore, through social pressure, they have demanded that justice be done.

First, because of the deaths in clashes that the isolated have had; secondly, that the girls who were abducted be returned because it is already known that their families are still looking for them; thirdly, they call for a kind of monitoring and control outside the ZITT, that is, for a real Buffer Zone to be created, protected by contacted indigenous peoples who live in nearby places such as the Waorani and Kiwchua peoples. Another point that Pedro emphasizes is that the State should make a real study about what is happening in both the BZ and the ZITT because as the oil border progresses, illegal activities such as raft extraction and drug trafficking more easily enter areas inhabited and

traveled by the Tagaeri people and other isolated areas. On the other hand, in 2013 Yasunidos presented to the State a report called "Plan from A to Z" that contains proposals to replace the extractives economic model with other activities such as: community tourism, which according to the economist Carlos Larrea for each job in an oil company community tourism offers 25 jobs and, the profits obtained in this activity would be distributed equally; agro – ecology and scientific tourism. Pedro also explains that, the ways in which Yasunidos tries to protect peoples in isolation are: demanding that the Popular Consultation that did not occur in 2013 – 2014 to protect the Yasuní National Park from the extractives of non-renewable resources, be carried out today because it is the Ecuadorian people and even more the inhabitants of the Amazonian territory who must decide if the oil stays under the earth , in this way it says that they can protect the environment and the isolated peoples who inhabit territories desired by oil and loggers. Since 2019 the members of the Collective in charge of the legal area, in this case Pedro Bermeo is part of the group of original petitioners in the case "Indigenous Peoples in Voluntary Isolation Tagaeri – Taromenane, with respect to Ecuador" of the Inter-American Court. His job has been to present reports in which he relates the different violations of rights that these peoples have suffered within the framework of the projects that affect their territory, natural resources and way of life, and the acts of violent deaths that occurred in the years 2003 – 2006 – 2013 (Bermeo, 2021).

It can be concluded by saying that the work that the Yasunidos Collective has done in favor of the defense of the peoples in voluntary isolation is arduous and that it would be of great help if through its indoor actions and public protests they continue to pressure the State to comply with protecting peoples in isolation. In addition, it is evident the reception that the Organization has had at the national level, that is why they have the capacity to create and propose to the Ecuadorian State public policies, projects and even a Popular Consultation to protect the Yasuní and therefore the peoples in isolation from oil extractives, being supported by the population of Ecuador.

## **Conclusion**

In conclusion, the Ishpingo field is located south of Block 43 bordering the Buffer Zone and 10 km from the ZITT. In this field are being built oil platforms A and B that will come into operation in 2022, the company in charge of this project is Petroecuador EP the same one that estimates to drill 72 wells to extract from 600 to 3000 barrels of oil per day. It should be considered that it was planned the existence of 8 more oil platforms that are part of the Ishpingo field, but that are within the Buffer Zone and until now the State has said that these platforms will not be built. Although the extraction of crude oil begins in 2022, the first phase of oil activity took place from 2019 with the construction of the road that connects the Tambococha field to the Ishpingo field. However, even though the



Petroecuador Public Enterprise and the State assures that this project is under environmental management plans and strictly comply with measures that safeguard the environmental and human rights of the uncontacted peoples; the violation of the rights of the Tagaeri people and other peoples in isolation is inevitable. For example, for the construction of the access road to the Ishpingo field, the workers to the area dispersed animals with loud noises, and to build this access they cleared large amounts of territory. This is a problem because they scare away house animals that are food for the Tagaeri. In addition, the development of this road during a pandemic has been a total irresponsibility of the State because; a technician who worked in the development of the Ishpingo project said that the contracts to build the road and the platforms were suspended because there were cases of coronavirus.

That is, the employees of the oil company were able to spread the virus to indigenous communities such as the Waorani who are near this road and if the Waorani met the Tagaeri it could infect these inhabitants who are vulnerable to these diseases, and consequently lead them to their death. Keep in mind that, the village in isolation Tagaeri is the one with the smallest population among the isolated and they are not family of the Waorani people like the Taromenane, so if their population decreases, they could disappear without a trace. Likewise, the construction of this road may bring with it processes of colonization, greater deforestation and other activities that may affect the normal dynamics of these territories; a case of this is the excessive logging that occurred during the pandemic that caused great concern regarding the villages in isolation Tagaeri – Taromenane since these could have been affected by this activity that took place on the banks of the Shiripuno River that is near the BZ and therefore the ZITT. In addition, the construction of the road to the Ishpingo can cause illegal loggers to get closer to the ZITT because it is a little explored place and where they may be able to find more wood or raft. Finally, when the extraction of crude oil from platforms A and B begins, deforestation in the area will be immediate and this will cause consequences for the indigenous peoples, in this case the Tagaeri people, who are surrounding the oil activity and among the consequences can be found are: affectation to the mega diversity that exists in the area by the disappearance of fauna and flora, as it is known the Tagaeri people live in harmony with the jungle and if this disappears or change the village can also have changes in their way of life; secondly, the less leafy the territory they inhabit, the easier it will be for them to be exposed to outside society; and the contamination of water sources that causes plants, animals and people not to be able to use this water, and if the water sources used by the Tagaeri are contaminated they will cause their members to contract different diseases either skin or carcinogenic. Finally, the Tagaeri are supposed to have a deep relationship with the sound of the jungle because they depend on the soundscape for their survival and one of the consequences of oil activity is that they generate noise from the power generators they use or from the heavy machinery that enters and leaves the oil fields. Consequently, these loud noises can frighten game animals as well and as far as is known the Tagaeri people by their isolation feed only on what nature offers them. Also, the disappearance of fish in the river and

mammals in the Tagaeri territories could have food shortages, which would force them to migrate or leave their isolation to survive.

As for the internal instruments that the Ecuadorian State must avoid the pronounced consequences of the Ishpingo field oil project to the Tagaeri community, there are several that must make them work, other aspects must be reformed, and even certain regulations must be truly applied. Hence, the Human Rights Secretariat must make the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation not only carry out workshops or awareness-raising projects but also through the Directorate of Promotion and Policy of Protection of Indigenous Peoples in Isolation and the Directorate of Monitoring and Follow-up of Protection of Indigenous Peoples in Isolation, develop research that will then serve to create internal policies that correctly protect the Tagaeri people and other isolated people. In addition, one of the proposals is that it could work together with non-governmental organizations, collectives, social actors of the environment and protection of human rights or rights of indigenous peoples, as well as with indigenous communities close to the peoples in voluntary isolation to propose measures to safeguard the rights of the isolated. On the other hand, the Ecuadorian State could reform article 407 of the Constitution because it contradicts article 57 of the Constitution, and because it allows the violation of rights to peoples in isolation when declaring that if there is a prior national interest, non-renewable resources of the ZITT may be exploited through a popular consultation. Similarly, there is article 80 of the organic comprehensive criminal code that says: "Ethnocide. - The person who, deliberately, generalized or systematically, totally, or partially destroys the cultural identity of peoples in voluntary isolation, shall be punished with a custodial sentence of sixteen to nineteen years" (COIP, article 80, 2014). In other words, it is the State that must protect the rights of peoples in isolation, which is why it should reformulate the articles to protect the Tagaeri people in a dignified manner. Also, it must consider that, if the Petroecuador company that oversees the oil extraction in Ishpingo comes to accuse the Tagaeri people of damages for the inefficiency of the State by not adequately protecting this people, it will have to abide by what article 80 of the COIP. However, it is urgent that the State through the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation carry out an investigation into the journey that peoples in isolation make for times to reformulate the delimitation of the ZITT since it is not the correct one, this in order not to carry out oil activity in areas with the presence of peoples in isolation to respect their state of isolation and by their human rights.

In the same way and using the rules of ILO Convention No.169, the United Nations Declaration on the Rights of Indigenous Peoples, the Inter-American Human Rights System, the Escazú Agreement, and the support of bodies such as the Permanent Forum on Indigenous Issues and the UN Expert Mechanism on the Rights of Indigenous Peoples, which Ecuador has ratified so far. The Ecuadorian State could propose internal legislation aimed directly at the protection of indigenous

peoples in isolation, taking as an example the Law for the Protection of Indigenous or Native Peoples in Isolation and in a Situation of Initial Contact in Peru. In addition, the UN agencies could be supportive of working together with the Undersecretary for the Protection of Peoples in Isolation to develop historical, territorial, and other research so that the State reconsiders the delimitation of the ZITT and thus the oil border does not advance. Finally, NGOs working in Ecuador are of the utmost importance in helping to protect the rights of the Tagaeri people. They could, through their research, support the Undersecretary for the creation of internal policies aimed at these peoples as well as to maintain pressure for the State to comply with protecting these peoples since it is its duty.

Finally, the actions that the Ecuadorian State must take are immediate given that the oil project in the Ishpingo field – Block 43 will begin in 2022 and the consequences that will cause the people in isolation Tagaeri and environment will be irremediable. The State, through its national and international instruments, must take concrete and rapid action, so as not to cause further damage and to want to repair it when it has already been done. Despite this, international organizations and NGOs are already taking steps to make the State repair the damage previously caused to the villages in isolation Tagaeri – Taromenane. This oil project should not be expected to be the cause of the disappearance of the isolated Village Tagaeri.



## CONCLUSION

Ecuador is an intercultural, plurinational and megadiverse country, in which 48% of its national territory includes the Amazon, in which ten indigenous nationalities live: Achuar, Andoa, A'Cofán, Waorani, Kichwa, Secoya, Shuar, Siona, Shiwiar and Zápara. It is also a territory where peoples in voluntary isolation settle, which are: groups that previously may have had intermittent contact with society, but given certain factors or disagreements decided to return to a situation of isolation and break all contact with these societies. In the Ecuadorian East live the isolated villages Tagaeri and Taromenane. Now, the Taromenane group is not a family of the Waorani people, but they have certain similarities such as language and, this group decided to remain in isolation due to the advance of the rubber industry. Meanwhile, the Tagaeri group is related to the Huao people, but after the arrival of the extractives industries, evangelical missions, and colonies to Waorani territories the Taga family decided to move away and remain in isolation for their protection.

The Ecuadorian State, being aware of the existence of the Amazonian indigenous peoples, has constitutionally recognized their rights, most of which are collective rights that include language, culture, religion, elements that are part of their identity, and rights relating to their territory. As for the rights of the Tagaeri people, these are the same as those of the other indigenous communities, adding that at the end of article 57 there is a paragraph that refers exclusively to the irreducible and intangible possession of the ancestral territories of the Tagaeri – Taromenane peoples in which all types of extractive activity are prohibited. Related to the protection of the rights of indigenous communities, the Constitution also states the rights of good living, from article 12 to article 34, and articles 293 - 294, which refer to the National Development Plan "Toda Una Vida".

On the other hand, the Magna Carta states throughout the document that the rights recognized therein and in international instruments must be made effective, which makes it clear that the State considers as a supreme norm what is dictated by international treaties ratified by Ecuador or that deal with human rights. The rights of indigenous nationalities have been protected on the international stage since the 60s when peoples of the United States, Canada, New Zealand, and Australia raised their voices against decolonization, these were supported by civil and political rights movements. For this reason, international law has had and has the challenge of defining and adapting the rights of indigenous peoples according to their needs, because this is not only a matter for the State but also for the people who can benefit from the protection of international law.

In the light of the above, international instruments were proposed for the recognition and protection of the rights of indigenous peoples and, specifically, for the protection of the rights of the Tagaeri isolated people. ILO Convention No.169, which was ratified by Ecuador in 2017, is a treaty that proposes the right of indigenous peoples to maintain and strengthen their own cultures, ways of

life and institutions, and their right to participate effectively in decisions that affect them. It also ensures that indigenous and tribal peoples decide on their own economic, social, and cultural development; this is expressed in the 46 articles contained in the treaty. The next instrument is the United Nations Declaration on the Rights of Indigenous Peoples, which was ratified by Ecuador in 2007. The Declaration, through its 46 articles, sets out the rights of identity, collective, culture, health, education, employment, and the right of indigenous peoples to persevere and strengthen their traditions and culture, as well as to work for their development in accordance with their needs and aspirations. Finally, the American Declaration on the Rights of Indigenous Peoples that was ratified by Ecuador in 2016; it could be termed as the most important instrument on issues of indigenous rights and rights of peoples in voluntary isolation, since the Declaration explicitly states' rights aimed at peoples in isolation, which are found in section five entitled "Social, Economic and Property Rights", article XXVI "Indigenous peoples in voluntary isolation or initial contact".

In addition, the Inter-American Human Rights System has made an elementary contribution, through the Commission and the Inter-American Court of Human Rights, to institutions that have developed jurisprudence that recognizes the collective and individual rights of indigenous peoples, such as the obligations of American States to these peoples. An example of what the Inter-American Human Rights System does can be understood through the analysis of the cases of the indigenous peoples of Argentina, Suriname, and Ecuador vs. their States. Similarly, the influence of the international instrument in cooperating in the protection of the human rights of indigenous peoples can be understood. Finally, the Escazú Regional Agreement that entered into force in 2021 and has been ratified by Ecuador. Although the Agreement is not aimed at indigenous peoples, the Agreement aims to address the environmental and climate crisis by entering environmental information and protecting the human rights of environmental defenders. It is an important agreement to defend the Tagaeri people in isolation because real information of their location can be obtained to keep them away from extractives.

Similarly, there were international organizations that focus their work on the protection of indigenous peoples such as: the UN Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples; also, NGOs that work in Ecuador to protect indigenous communities such as: IWGIA, Amazon Frontlines and Amazon Watch. Finally, the Yasunidos Collective that is a national organization that it has had the power to confront with indigenous communities problems due to abuse of indigenous rights. These instruments, mostly international, could work together with the Ecuadorian State to implement national projects, programs and policies aimed at the protection of the Tagaeri people and other isolated people, and thus both parties would fulfill their objective.

Oil exploitation in the Ecuadorian Amazon began in the 50s and it was the company Texaco –

Chevron that operated in the area for 30 years. Consequently, the discovery of extensive oil fields in the East made the country a large-scale oil extractor, and crude oil the most exported product. Therefore, oil has been considered the basis of the economy, but it must be clear that it is a non-renewable natural resource that has an expiry date and that causes great environmental and social havoc. In past decades, the governments of the day were aware of the existence, in the territory of the Yasuní, of uncontacted indigenous groups. For this reason, in 1999 the State created an Intangible Zone where all types of extractive activity were prohibited, to protect these peoples from the oil companies that worked nearby. Later, in 2007, the then Palacios government maintained the Intangible Zone, but added a Buffer Zone in which forestry activities, mining, and oil infrastructure works would also be prohibited. In 2019 and after a popular consultation, Moreno's government decreed that the ZITT would be expanded by 500.000 hectares. However, oil extraction in Block 43, which is formed by the Ishpingo – Tambococha – Tiputini fields, has been developed in the Tambococha and Tiputini fields since 2016. The oil activity in Block 43 began after the failure of the Yasuní ITT Initiative, at the beginning of the Government of The Post declared that only the two fields would be exploited and would exclude the Ishpingo field due to its proximity to the ZITT. However, Moreno's government said that it is important to extract crude oil from Ishpingo to pay off the country's debts. In that sense, in 2020 oil activity began in Block 43 for an upcoming extraction of oil from platforms A and B located in the Ishpingo field. The platforms that will be in the Ishpingo adjoin the Buffer Zone, and this area is located just 10 km from the ZITT where they live and intermittently travel the village in isolation Tagaeri and other isolated.

Regard to oil extraction, the Constitution of Ecuador states in article 57 on the extraction of oil in the ZITT; article 72 on the extraction of non-renewable resources and the rights of nature; article 274 on the management of Decentralized Autonomous Governments on non-renewable natural resources; articles 313 and 317 state that the State is the one who manages these resources, and it is the one who must follow the principles of environmental sustainability and prioritize the conservation of nature; Article 407, which prohibits the extraction of non-renewable resources in the ZITT, but if there is a declaration of national interest by the Assembly, a popular consultation may be convened to extract non-renewable resources from the Intangible Zones, with the exception of mining; and finally article 408, which deals with the exploitation of non-renewable natural resources and as the government administered these resources of these activities to grant a dignified life to Ecuadorian citizens. In addition, there are national regulations regarding the exploitation of non-renewable natural resources, among which can be found: the Hydrocarbons Law, the Environmental Regulations of Hydrocarbon Operations in Ecuador, the Mining Law, and the Environmental Regulations on Mining Activities. As could be concluded, article 407, which proposes to fully protect peoples in voluntary isolation by prohibiting extractives activity in the ZITT, is contradicted by article 407, which proposes that, in the national interest declared by the National Assembly, there may be oil extraction in the

ZITT. Furthermore, the contradiction between these articles would be overshadowing the protection of territorial law and human rights of the Tagaeri and other isolated people.

For a better context, when the State allows the exploitation of crude oil in the Ishpingo field, immediately from the beginning of the oil activity there are abuses of the rights of the people in Tagaeri isolation. For example, the construction of the access road to platforms A and B of the Ishpingo has caused the dispersal of house animals, the clearing of hectares of native forest, the opening of a direct road to the BZ and the ZITT, and the most worrying thing is that at the time of the construction of this road the world is in a pandemic due to COVID - 19 and the workers of Petroecuador who work in the area have been infected by the virus, causing concern that the virus will spread to nearby indigenous peoples or even to intangible territory. Similarly, when oil extraction begins in the Ishpingo there will be other consequences for the people in Tagaeri isolation such as: increased deforestation, the entry of other extractive activities, colonization, illegal house of animals, the approach of people from outside to the Intangible Zone, water pollution and lands near the ZITT that can bring risk diseases for the Tagaeri , and the noises caused by the oil companies will be uncomfortable for the Tagaeri who have an affinity with the sounds of the jungle for their daily lives. One point that should be considered is that the Tagaeri people are nomadic so they travel through territories outside the ZITT that include the ZA and even oil blocks 31 and 43. So, regardless of whether the oil activity takes place kilometers from the ZITT that will still affect the Tagaeri people.

In Ecuador, however, there are internal mechanisms aimed at protecting peoples in isolation. First, about domestic legislation, article 80 of the COIP states that, if there is a total or partial destruction of a cultural identity of peoples in voluntary isolation, this shall be punishable by deprivation of punishment. Secondly, since 2018, the Human Rights Secretariat has been in favor of safeguarding the rights of the isolated through the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation, which, at the same time, is made up of the Directorate for the Promotion and Policy of Protection of Indigenous Peoples in Isolation, and the Directorate for Monitoring and Follow-up of the Protection of Indigenous Peoples in Isolation in isolation. This Undersecretary is supposed to formulate, disseminate, and implement policies to protect peoples in isolation. However, and unsurprisingly, it has only carried out programs that have not had any scope or that have not been known in the media. It has also been unable through the Monitoring Directorate to correctly define the territories that Tagaeri – Taromenane isolated peoples inhabit intermittently depending on the time of year and their needs. Therefore, the ZITT does not cover the true territory of peoples in isolation but the area that the State assumes they inhabit. Thus, the abuse of rights towards these peoples has occurred more easily due to fortuitous encounters with other indigenous peoples, workers of oil companies, illegal hunters and people who deforest in the area.

Once the history of the Tagaeri people has been defined, the oil exploitation in the Amazon, the



upcoming extraction of crude oil in the Ishpingo and its consequences, what the Constitution of Ecuador proposes on the rights of indigenous peoples, the extraction of non-renewable natural resources and the action of international organizations in the country, the national instruments commissioned or pronouncing on peoples in isolation, and the International Instruments protecting the rights of indigenous peoples and peoples in isolation, it can be determined that: the State must act immediately to protect the Tagaeri isolated people from oil activity in the Ishpingo field that is close to the ZITT. Furthermore, it really must put into practice what the Constitution states about the rights and territories of the isolated because it can no longer ignore these peoples and put the economic interests produced by oil above. For these reasons and based on what is proposed by the international regulations of the three instruments, plus the support of IOs and NGOs, the following is proposed:

First, that the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation work together with non-governmental organizations, collectives, social actors of the environment and protection of human rights or rights of indigenous peoples, as well as with indigenous communities close to the peoples in voluntary isolation to propose measures to safeguard the rights of the isolated, through their research, and with ideas of programs and projects.

Secondly, the Ecuadorian State could reform article 407 of the Constitution because it contradicts article 57 of the Constitution, and because it allows the violation of the rights of peoples in isolation when declaring that if there is a prior national interest, non-renewable resources of the ZITT may be exploited through a popular consultation.

Thirdly, through article 80 of the COIP, the State must punish those who have violated the rights of indigenous people in isolation, and not leave these cases unpunished. Must consider, that the Tagaeri people are made up of few people and that they are in danger of disappearing.

Fourth, it is urgent that the State through the Undersecretary for the Protection of Indigenous Peoples in Voluntary Isolation carry out an investigation into the journey that peoples in isolation make for times to reformulate the delimitation of the ZITT since it is not the correct one, this in order not to carry out oil activity in areas with the presence of peoples in isolation to respect their state of isolation and therefore their human rights.

Through the regulations of ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples, the Inter-American Human Rights System, the Escazú Agreement, and the support of bodies such as the Permanent Forum on Indigenous Issues and the UN Expert Mechanism on the Rights of Indigenous Peoples, which Ecuador has ratified so far. The Ecuadorian State could propose internal legislation aimed directly at the protection of indigenous peoples in isolation, taking as an example the Law for the Protection of Indigenous or Native Peoples in Isolation and in a

## Situation of Initial Contact in Peru.

Finally, the State and all citizens of Ecuador must become aware of the environmental damage that affects the uncontacted peoples; these peoples have decided to remain in isolation for the fact of protecting their culture, traditions, family, and the Amazon. Furthermore, the Tagaeri people, being a small group and remaining in isolation, have no way of protecting themselves and fighting for their part, and that is why the State, taking on its role as defender of its citizens, must safeguard the rights of the Tagaeri people. Oil is only an easy way to obtain economic remittances and a non-renewable resource, so it is time to consider new economic models that do not affect the planet, much less defenseless peoples.

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## ANNEXES

**Interview conducted by the YudLeads Foundation, which is an organization of young people who seek to create leaders for the present and future. I asked to be invited to the interview and can make an intervention that will be described below.**

Interview: Waorani Resistance

Date: October 16, 2020

Interviewer: Samantha Arias

Interviewee: Oswando Nenquimo

### **Intervention**

**Natalia:**

Good afternoon to all, I have two questions.

The first question is: Considering the mapping that the Waorani Resistance did together with other people, to create a real map of their territory and the redeemers. Do you think that in this map they delimit the territory where the peoples in voluntary isolation are located, or where they travel?

The second question is: A year ago, oil extraction was allowed from the Ishpingo Field, which is in Block 43, a territory that is located near the Tagaeri – Taromenane Intangible Zone. Are you like "Waorani Resistance" or "Ceibo Alliance" touching on the subject, or do you plan to do something to protect the peoples in voluntary isolation?

**Oswando:**

We mapped 16 communities but more the minority communities of the jungle that are the Waorani, Secoya, Cofán and Sarayaku, who also joined together to create Alianza Ceibo. It was not only mapping but it was supporting us between communities and empowering us, and thus identifying natural and cultural resources. We map 180.000 hectares and all that is already published in different pages.

The Tagaeri and Taromenane are hard to find even though we know where they are, but we prefer to leave them alone. In the mapping is the Intangible Zone, but not correctly their territory because they walk in many places, they do not live in one place. That is why it is hard to say that only one place is its territory.

What I do say is that our comparison to the maps of the government and the oil companies is different, because in our tours to do our mapping we realized that the lines they draw I do not know if with GPS or other things, those lines that occupy the oil companies are even above our territories and those lands are already being damaged without us knowing.

#### Second Question:

That question is also remarkably interesting, we can also help as a waorani of Pastaza, we want to make a new model, our own in an area that there is no oil exploitation. We want to form a strong and solid team, and then expand to the entire Waorani territory that is very great. Lately, in the year 2019 before COVID, together with Waoranis de Pastaza and other Organizations we proposed a precautionary measure to the Ecuadorian State. We call for a paralysis of the oil industries in Yasunido, to focus on the help of the isolated Tagaeri – Taromenane peoples who are our Waorani families. The government has played a lot with us about this, that is why we are still fighting and fighting; but for that we need the union of all communities. Also, in those shabby measures that are already in place, there is no point that says it is going to protect isolated peoples, it is just like they said they live happily. That is not true, they need the protection. That is why we are monitoring so that people in isolation live-in peace, when the oil companies are paralyzed. Another problem is that, because the isolated do not go out to fight and do not exert pressure, they continue to be abused. That is why unity and voice are needed to achieve what is asked for, so that they protect the isolated.

## Interviews with members of the Yasunidos Collective

### **INFORMED CONSENT FOR INTERVIEWS**

University of Azuay

Thesis: "Oil exploitation of block 43 in Ishpingo - 2020: an analysis of the intervention of international organizations, for the protection of rights of the Tagaeri people".

#### **Objective of the thesis:**

To determine how the extractive project of block 43 Ishpingo can violate the rights of the Tagaeri nationality considering the Constitution of Ecuador of 2008 and international treaties and instruments.

#### **Objective of the Interview:**

Collect detailed information on the protection actions carried out by the collective, organization or company regarding indigenous groups in voluntary isolation (Tagaeri – Taromenane).

To know the point of view on how the Ecuadorian State has handled the issue of uncontacted peoples. What international instruments can be used for the protection of indigenous peoples in isolation? **Commitment:**

Any information that can be obtained in the interview will be solely and exclusively used for the purposes of the academic research that is carried out within the framework of the thesis project.

#### **Acceptance of the interview:**

I, \_\_\_\_\_ accept to participate voluntarily in this research, conducted by student Natalia Sarmiento León. I have been informed (a) of the purpose of the investigation and purposes of the interview.

I have been told that the interview will consist of answering questions, that it will be recorded and that it will take approximately 30 minutes or more.

Signature:

ID number:

## **QUESTIONNAIRE FOR INTERVIEW**

1. Are you aware of the problem, that is, the oil exploitation of the Blocks where the PIAV live or transit that the Tagaeri people in voluntary isolation are going through now?
2. What is the role of the Organization in protecting the rights of the indigenous peoples who inhabit the Yasuní National Park?
3. What do you think the government of Ecuador can and should apply to protect indigenous communities or indigenous peoples in voluntary isolation?
4. What international instruments do you think could be applied to protect these peoples? - How to implement the provisions of these conventions and instruments?
5. How do you think the state could obtain the economic resources through a route other than oil extractives?
6. What mechanisms, programs or projects could be implemented for the protection of the Tagaeri PIAV?

PIAV: Indigenous Peoples in Voluntary Isolation



## **Interviews**

### **Interview No. 1: Pedro Bermeo – Colectivo Yasunidos (2021, February 26)**

#### **Natalia:**

Good afternoon, my name is Natalia Sarmiento León, a student of International Studies at the University of Azuay. Now I am doing my thesis so today's interview will provide information that will be used for the document.

It is genuinely nice to have the opportunity to interview you today; you have been a reference in the national struggle for the rights of nature and human rights. In addition, I know that you are part of the legal body of Yasunidos and that you are now working on the IACHR case on the abuses of the rights of peoples in isolation Tagaeri – Taromenane vs Ecuador.

Before starting the interview, I will read you the Informed Consent so that you know what it is about and how this information will be used:

**Thesis:** "Oil exploitation of block 43 in Ishpingo - 2020: an analysis of the intervention of international organizations, for the protection of rights of the Tagaeri people".

#### **Objective of the thesis:**

To determine how the extractive project of block 43 Ishpingo can violate the rights of the Tagaeri nationality considering the Constitution of Ecuador of 2008 and international treaties and instruments.

#### **Objective of the Interview:**

Collect detailed information on the protection actions carried out by the collective, organization or company regarding indigenous groups in voluntary isolation (Tagaeri – Taromenane).

To know the point of view on how the Ecuadorian State has handled the issue of uncontacted peoples. What international instruments can be used for the protection of indigenous peoples in isolation?

#### **Commitment:**

Any information that can be obtained in the interview will be solely and exclusively used for the purposes of the academic research that is carried out within the framework of the thesis project.

Next, I ask you to read the acceptance of the interview by adding your details, and if you have any questions then let me know.

**Pedro:**

**Acceptance of the interview:**

I, Pedro Bermeo Guarderas, agree to participate voluntarily in this research, conducted by the student Natalia Sarmiento León. I have been informed (a) of the purpose of the investigation and purposes of the interview. I have been told that the interview will consist of answering questions, that it will be recorded and that it will take approximately 30 minutes or more.

Signature: Pedro Bermeo Guarderas

I.D number: 1714278262

I have no doubt if you want, we can start with the interview. For me it is a pleasure that you have taken me into account and that you are doing this research of which there is not much knowledge. I hope to be of great help.

**Natalia:**

Thank you very much Pedro, then we started with the interview. I will be asking you the questions of the questionnaire that you can see on the screen, and in each of them we will talk a little.

So, the first question is this: Do you know the problem, that is, the oil exploitation of the Blocks where the PIAV live or transit that the people in voluntary isolation Tagaeri are going through now?

**Pedro:**

In Zoom video the audio quality is poor. The first two questions are almost impossible to transcribe, however important points were scored that Pedro Bermeo said.

- The problems of the villages in isolation Tagaeri – Taromenane have been occurring for quite some time. It could be said since the beginning of oil exploitation in the Amazon. However, governments have not considered the existence of these peoples, much less their problems, because in Ecuador the economic interest that oil has provided has always prevailed.
- For example, the clashes between the Tagaeri and Waorani have existed, but no one talks about it. Also, it is important to know that the peoples in isolation are not only in the ZITT but

are also people who travel to the border with Peru, through oil blocks 31 and 43, and quite a lot through the Buffer Zone. That is why they have had fortuitous encounters with oil workers and other people.

- Environmental problems, which will lead to serious problems for the isolated, due to the construction of the platforms in the Ishpingo field will be imminent. And the problem here is that these villages are small groups of families, who despite being warriors; do not have the means to defend themselves against these extractive industries. In addition, when oil extraction begins in the Ishpingo it will be difficult to know what will happen in the place.

About question No.2: The Yasunidos Collective, had faith in the Yasuní ITT Initiative, and then tried to collect signatures so that there would be a popular consultation that would prohibit extractives in the ITT. And so far, we have supported all the indigenous peoples, such as the Sarayaku or Waorani, who are against the oil companies in their territories. At present, Pedro is working with other colleagues in the investigation of the case that was presented at the IACHR on the peoples in voluntary isolation Tagaeri – Taromenane.

**Natalia:**

Interesting your point of view Peter, I never knew the different problems that the isolated went through. I will continue with question three that says: What do you think the government of Ecuador can and should apply to protect indigenous communities or indigenous peoples in voluntary isolation?

**Pedro:**

It is a question that would take me all afternoon to answer, but I tell you that the state is responsible for protecting the rights of these peoples. But even though there have been problems such as the Fact that the Waorani have kidnapped two Tagaeri girls – Taromenane, and that it is known that their families are looking for them, it shows how little he has been interested in protecting these peoples.

I believe that an important measure is that there should be monitoring and control outside the territory, that there should be a real buffer strip, which really means the territory of the peoples in isolation. That is to say, the territory of the peoples in voluntary isolation, which now is the Intangible Zone, is erroneous because what is demonstrated by the mobility patterns of these peoples, the attacks

that have arisen, the conflicts that have existed, show that the ZITT is not properly delimited. It does not represent its territory and its interests, but represents oil interests; therefore, the territory has been cutting, and the oil companies have advanced. It is therefore of the utmost importance that ZITT be amended and that the territory be respected as established by the Constitution in its article 57; and that the true territory of the isolated where they dwell, hunt and transit, and make a true territory of them and that is intangible.

As I say, the monitoring must be complemented by the peoples who live in those territories and who have initial contact such as the Waorani and Kichwa peoples who live in the area. It must be possible to work together for monitoring and control, to avoid problems such as illegal hunting, illegal logging, and there is talk that there is even drug trafficking in the area. We have like several problems in the place, one is the social conflict over extractives, but let us say that many more things that also need to change, so it is exceedingly difficult to say everything in a single interview.

**Natalia:**

I understand, that is why the objective of this thesis is that the proposals that you as activists have can be reflected and make known that there are solutions that the State can consider. And let us hope that these ideas will one day serve as a basis for them to help protect people in isolation.

Well, the fourth question is this: what international instruments do you think could be applied to protect these peoples? - How to implement the provisions of these conventions and instruments?

**Pedro:**

Well, yes, in addition to the Inter-American Human Rights System, which we talked about a little bit about, there are several conventions that are linked. The one is that of the ILO, the other that is important is that of Escazú, and I do not have any more in mind now; but there are several international conventions that rightly protect indigenous peoples and therefore also the indigenous peoples in voluntary isolation.

I believe that the most important is the Inter-American Court because there we have a binding instance with Ecuador, and by which we can look for ways in which safe procedures can be provided. Also, there are organizations that are linked to the issue of climate change and the defense of the rights of nature. While it is true that it is difficult to have an International Court of nature rights, which does not yet exist, but there are several conventions that agree not to exploit oil, that promote the non-emission of greenhouse gases such as the Paris Agreement. Therefore, it must be understood that the defense of peoples in isolation is also promoted by protecting the life of nature, which are

strictly linked.

**Natalia:**

True, the Tagaeri in this case are protectors of the Amazon. Therefore, the moment this territory is protected in some way, the isolated are protected.

Well, I think what you have said before answers question six, so I think it is better to move on to the fifth question, which would be the last. This question reads as follows: How do you think the state could obtain economic resources through a route other than oil extractives?

Putting this question in context, in other conversations, talks and others in which I am present, people shop to think that in the Amazon of the country there will always be inconveniences both to the environment and to the people who inhabit the place. And, that this is because the state needs to extract the oil for the good of the country.

**Pedro:**

Well, as Yasunidos in 2013 we presented a plan that was called "Plan de la A – Z" that had several proposals on how at that time the silver that came out of the oil exploitation in the Yasuní could be recovered, that oil silver that according to the government was going to serve to lift Ecuadorians out of poverty. After seven years we see that this has not been the case, that it has rather been the contrary that has worsened the economic situation, and that is so because basically oil is a Russian roulette in which everything can go moderately well, because it is not totally good for the communities that inhabit oil lands., or all wrong.

So, in that sense, the issue of oil extraction is a false paradigm, because it is not getting us out of poverty, it does not mean a real economic benefit and there are sustainable and better alternatives in social issues. For example, community tourism that according to experts such as Carlos Larrea, professor of economics at the Andean University, that for every job that gives oil, tourism gives 25 jobs and distributing wealth in a more equitable way, because not only does the money reach a person in the company but the chain of people who would work in this tourism. In addition, it is people from outside who must work in the oil companies because they are supposedly exceedingly difficult jobs, but for the indigenous people of the area it would be easy to work in community tourism, because it is easy for them to be guides in a place they know well or can prepare dishes in the area. Only there can we observe that when it is said that oil is going to lift us out of poverty it is contradictory, because those who work in these companies are even from other countries, and without wanting to say that I have something against foreigners, but if they want to comply with that discourse because they do not

create jobs for indigenous communities. The real reason when environmental liabilities and the social liabilities it leaves behind are considered the oil exploitation we can notice that it is not a benefit but rather the not, what happens is that it is only a quick way to get money, a quick way that the rulers of the day who are only four years old can access the easy money to develop their works. So, that is the reason why it is decided to exploit, but there are many other alternatives such as: community tourism, agroecology that has a lot of potential in Ecuador and that only taking these two we can give examples of countries like Costa Rica that applying these alternatives has done so well, that even almost the whole country is like a reserve.

**Natalia:**

I think it is a good example, I had even read that Costa Rica's tourism is now based on ecology and that this has left ample profits to the country, while protecting its communities and environment.

**Pedro:**

Exactly! That is what you would expect from a megadiverse country like ours, but with good leaders...

So, as I said. There are ways out of poverty that do not mean dispossession of the most vulnerable. Beyond the hegemonic discourse of the government of the day, we have always been working for the poorest, but those poor have only been certain poor. For them it is not the same a poor person from Quito as a poor person living in Shushufindi, in those cases they are stripped of their belongings by mining. There is always this series of implications where the economic is put above the social, and that is the problem.

**Natalia:**

Peter these have been the questions that I thought I needed to ask you, but I would like, if you can, to tell me a little more about the case in which you are working on the villages in isolation Tagaeri – Taromenane.

**Pedro:**

Well, as Yasunidos we have had enough projects to help people in isolation, but unfortunately due to the pandemic they have been overly complicated. You just should not put these communities at risk because what we want is to respect the rights of these peoples, and that is why it is a danger that people will come into these communities because we could be carrying the virus as well as other diseases. However, the oil company continues to do so with impunity without anything ever stopping

in the pandemic, the construction of the access road to the Ishpingo continued.

About the case of the Inter-American Court, we are preparing a report; we are three petitioners, the original petitioners, those of CONAIE, and the petitioners of Yasunidos; so, together we are filing the briefs before the Court where we explain all the violations of all the rights recognized, so that finally there is a sanction and a reparation to the peoples in voluntary isolation. It is a confidential process that I cannot talk much about because it is a legal strategy, but it is going to be an especially important precedent not only for Ecuador but for the whole of Latin America. It is important to know that when the Inter-American Court makes a ruling it does not apply only in the country, but it is *Erga Omnes*, which applies to all those who sign the HDI Convention. So, this is going to be a way to protect peoples in voluntary isolation from Brazil and other countries.

On Yasunidos as such, we continue in the struggle of the popular consultation that we were denied in 2014, which is a way to protect the PIAV. We know that representative democracy does not work, it is not true.

**Natalia:**

First, I want to thank you for having given me the interview that contains interesting information for my thesis. Second, I wanted to tell you that the struggle you are following and what you have accomplished has been a great help in somehow protecting indigenous peoples from extractives. And finally, it remains for me to tell you that I hope one day I can send you the thesis and this can be of help as well.

Thank you, Peter, for your time...

**Pedro:**

Cool, thanks to you Natalia for what you are doing.

## **Interview No. 2: David Fajardo – Colectivo Yasunidos (2021, March 2021)**

Good afternoon, my name is Natalia Sarmiento León, a student of International Studies at the University of Azuay. Now I am doing my thesis so today's interview will provide information that will be used for the document.

It is genuinely nice to have the opportunity to interview you today, you have been a reference in the national struggle for the rights of nature and human rights. In addition, I have followed the fight you have made for Molleturo and Río Blanco, and in general for the protection of water.

Before starting the interview, I will read you the Informed Consent so that you know the objective of the thesis and how this information will be used:

**Thesis:** "Oil exploitation of block 43 in Ishpingo - 2020: an analysis of the intervention of international organizations, for the protection of rights of the Tagaeri people".

### **Objective of the thesis:**

To determine how the extractive project of block 43 Ishpingo can violate the rights of the Tagaeri nationality considering the Constitution of Ecuador of 2008 and international treaties and instruments.

### **Objective of the Interview:**

Collect detailed information on the protection actions carried out by the collective, organization or company regarding indigenous groups in voluntary isolation (Tagaeri – Taromenane).

To know the point of view on how the Ecuadorian State has handled the issue of uncontacted peoples. What international instruments can be used for the protection of indigenous peoples in isolation?

### **Commitment:**

Any information that can be obtained in the interview will be solely and exclusively used for the purposes of the academic research that is carried out within the framework of the thesis project.

Next, I ask you to read the acceptance of the interview by adding your details, and if you have any questions then let me know.



**David:**

**Acceptance of the interview:**

I, Roberto David Fajardo Torres, agree to participate voluntarily in this research, led by the student Natalia Sarmiento León. I have been informed (a) of the purpose of the investigation and purposes of the interview.

I have been told that the interview will consist of answering questions, that it will be recorded and that it will take approximately 30 minutes or more.

Signature: David Fajardo Torres I.D number: 0104834403

**Natalia:**

Thanks a lot. Next, I will present the questionnaire of questions to from these take a conversation of the subject.

The question reads as follows: Are you aware of the problem, that is, the oil exploitation of the Blocks where the PIAV live or transit, which the Tagaeri people in voluntary isolation are going through now?

**David:**

Yes, the most worrying thing is precisely what you are analyzing Natalia, which is the exploitation of the Ishpingo field, because even with the results of the popular consultation of 2018, within which one of the questions was the issue of the Yasuní, that adequacy of the boundaries between the ZITT and the boundary with the same Yasuní National Park was left in a limbo that leaves the Tagaeri and Taromenane defenseless. In other words, this new Ishpingo oil field is already invading the Buffer Zone which is close to the ZITT. Even as a fact, I tell you that most of the crude oil that is in the Ishpingo is outside the Block already in the BZ.

In addition, we must consider other things, for the extraction of oil you need the construction of infrastructure and among this we can find the issue of the roads, which as I understand you understand. This access road that is under construction will allow many more things, including easy access for the illegal felling of timber species in the Yasuní area, the house and illegal trafficking of species, and processes of land privatization are generated, which is worrying. And, unfortunately, attention on the part of the state to this does not exist.

**Natalia:**

I guess you refer to the issue of land privatization as the issue of colonization that occurs around these roads for use. The data of the limits of the ZITT and the National Park is interesting because this could happen to territories even closer to the Intangible Zone can be exploited, the oil borders are extended.

Well, I continue with question two that says: What is the role of the Organization in protecting the rights of the indigenous peoples who inhabit the Yasuní National Park?

**David:**

Exactly the issue you mention is worrisome, because then there may be attacks by the isolated- on people from outside, and vice versa.

Our role is mainly a role of denunciation and demand, we are being civil society organizations do not have competences of a political nature or administrative for the protection of the PIAV. These competences lie primarily with the State, but the State does not fulfil its obligations and competences; and that is why we assume this commitment, above all, to demand that the State comply and in case it does not comply we go to the issue of denunciation. We complain in jurisdictional venues; courts, tribunals, and tribunals; the violations of the rights of the PIAV and is that the administration of internal justice of Ecuador does not respond to international instances. This is what happened in the last decade, when precautionary measures were requested before the IACHR precisely because of the conflicts that were happening between the peoples in isolation and other indigenous peoples, these requested measures are still in force in favor of the PIAV, but the State does not comply. A Protection Action was also presented in favor of the PIAV, but the issue does not progress because the government has a clear vision towards extractives within the Yasuní, and that is worrying in the sense that it means that they will deepen the violation of the PIAV. And that in turn means that they will not consider jurisdictional guarantees such as protective actions and precautionary measures to defend their rights.

**Natalia:**

The situation is worrying. The following question reads: What is the role of the Organization in protecting the rights of the indigenous peoples who inhabit the Yasuní National Park?

**David:**

He created me to get a little ahead of myself and on the first question I also replied that this is what Yasunidos has done on this issue.

**Natalia:**

Yes, it is true, if you have nothing more to narrow down, we could move on to question three.

**David:**

So, let us move on to the next question.

**Natalia:**

Ready, the following question says: What do you think the government of Ecuador can and should apply to protect indigenous communities or indigenous peoples in voluntary isolation?

**David:**

In truth, the state must fulfill its duty to protect the PIAV. It must at least respect the ZITT as intangible in the strict sense, because effectively these peoples have two characteristics: first that they are semi-nomadic peoples, because they remain stationary in a territory and then migrate and move permanently through the ZITT and outside it; and the second characteristic is that they are ecosystemic peoples, that is, peoples that depend strictly and solely on the ecosystem where they live. So, if you damage the ecosystem where these peoples live, you could also destroy them, and this can be called ethnocide. It must also, by obligation, respect in a timely manner what is proposed in the Constitution, specifically article 57, and not contradict itself. Likewise, it is demanded that the ZITT be expanded because as I told you they are semi-nomadic peoples, because they do not understand the political - administrative limits that have been established from the Ecuadorian State. They always move according to their needs.

**Natalia:**

Yes, this is not only a problem of the Ecuadorian State but also of the States because, as we have seen, these peoples even move to the borders with Peru, as do the isolated peoples who inhabit Peruvian territory.

I continue with the following question which says: what international instruments do you think could be applied to protect these peoples? - How to implement the provisions of these conventions and instruments?

**David:**

Perfect, there are two that are essential, and I think they are the main ones. In chronological order, first there is ILO Convention No. 169, which speaks specifically about the rights of indigenous peoples, and it seems to me that it has a specific section for peoples in isolation. In addition, this convention mandates States to create guarantees for respect for the rights of indigenous peoples. And then there is this United Nations Convention on the Rights of Indigenous Peoples, Tribal Peoples and Similar Peoples that in the same terms as the previous Convention expands the framework of protection that indigenous peoples have at a global level.

In that sense, something we must understand is that the instruments that apply to indigenous peoples in contact are not instruments that necessarily must be applied with the PIAV; moreover, they should not be applied. One example, the issue of prior, free, and informed consultation that is currently a fundamental right of indigenous peoples and one of the most important instruments for the protection of their peoples and territories. However, this is not possible with PIAVs because a contact is needed to be able to make the query. That is why for the PIAV the rules are simple and clear, just leaves them alone, they do not want contact and they are fine living like that.

Now, in Latin America there is the Escazú Regional Agreement. This Agreement does not directly touch on the issue of THE PIAV, but it is important because it recognizes at the regional level the category of human rights and environmental rights defenders, which is related to the protection of the rights of indigenous peoples. Also, this Agreement will be interesting because now the State can provide the real information of extractives projects that affect the environment, and it will be possible to know first-hand what can happen with the PIAV and know how to defend them.

**Natalia:**

Now that you pronounce this Escazú Agreement I will investigate it because it will be of utmost importance in the issue of protecting the rights of indigenous peoples, obviously including isolated ones.

Well, the next question says: How do you think the state could obtain the economic resources through a route other than oil extractives?

**David:**

Super simple that question. Two issues, the first is to transform the economic model of

Ecuador, especially the productive matrix. Ecuador's Constitution already establishes certain parameters for achieving this transformation. I personally and what some organizations are working is that, for the transformation of this productive matrix we must bet on two issues: firstly, investment in infrastructure for tourism in general, but even more so for scientific tourism, which has the potential to generate revenue in droves. As an anecdote I tell you that last year we were in a hearing of the Constitutional Court of Ecuador, it was a hearing in which the Court selected a case to develop binding jurisprudence, and this case was a protection action to protect the Forest Protect Los Cedros (worth the redundancy). In this hearing many scientists participated, there was a biologist from the United States who in his argument mentioned that his studies to obtain his PHD were being carried out in that forest and that simply his study meant an investment of \$ 500.000 for six months in Ecuador. That \$500.000 was distributed among expenses, taxes, mobilization, food, salaries, etc. And he said, if Ecuador transforms and invests in infrastructure for scientific tourism, it will have gigantic profits, because Ecuador is the most biodiverse country on the planet proportionally speaking in relation to its territory.

**Natalia:**

Interestingly, I had not thought about this possibility of tourism that does not affect the country's ecosystems and that can generate significant economic income for the country.

Thus, we come to the last question that says: What mechanisms, programs or projects could be applied for the protection of the Tagaeri peoples?

**David:**

We had talked that the case of the peoples in isolation Tagaeri – Taromenane is already before the Inter- American Court, but I must say that this is not enough. The problem with these cases of the Inter- American Court is that the process to reach a judgment is delayed, and not necessarily when there is a sentence the State abides by it and that is why the Inter-American Court has mechanisms to follow up on the fulfillment of its sentences. And it is worrying because there are those who say that, when the Court rules on a judgment that must be complied with by a State, the sovereignty of that country would be violated; and behind that discourse, States often do not abide by the Court's rulings. Therefore, the fact that the Court has accepted the PIAV case is not a guarantee that their rights will be properly protected.

I believe that the most important thing in these times is that we remain in the process of demanding that the rights of the PIAV be respected internally and that these demands have several

strategies, from the strategies of incidences through these international instruments sent letters to the Ecuadorian State asking that the rights of peoples in isolation be respected. And it is important that from civil society and social organizations we keep in demanding processes through direct actions. If the PIAVs are in a situation that is untenable and that may mean the disappearance of these, then they must take to the streets and demand full respect for the lives of peoples in isolation. To carry out direct actions that put the State in compromise, from which they cannot get away with simple speeches.

**Natalia:**

David believed that we just have to say the points have been made clearly.

I thank you for this interview and for your time. Believe me that this information will be of great help in the development of this research. Again, thank you.

**David:**

Nothing, I hope what we have talked about is useful and if you need something else do not hesitate to contact me.

Good luck with this research that is necessary.