

REGIONAL METHODOLOGY

Principles and guidelines  
for the formulation of  
**METHODOLOGIES FOR  
THE RECOGNITION  
OF THE EXISTENCE OF  
INDIGENOUS PEOPLES  
IN ISOLATION**

*in South America*



REGIONAL  
METHODOLOGY REPORT:  
Principles and guidelines  
for the formulation of  
methodologies for the  
RECOGNITION OF  
THE EXISTENCE OF  
INDIGENOUS PEOPLES  
IN ISOLATION  
*in South America*

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We, living in the western world, must realize that isolated people truly live in another reality, rooted in their traditional territory. In recent years, plots of land have become smaller, with less and less territory remaining

Diri Etacore (Ayoreo)

## Acronym

**ACT:** Amazon Conservation Team

**ACYAPS:** Agentes Comunitarios Yanomamis de Atención Primaria en Salud (Primary Health Care Yanomami Community Agents)

**OHCHR:** Office of the United Nations High Commissioner for Human Rights

**ADPF:** Ação de Descumprimento de Preceito Fundamental (Claim of Non-Compliance with a Fundamental Precept)

**AGPA:** Asociación General del Pueblo Auoreo (General Association of the Ayoreo People)

**AIDSESP:** Asociación Interétnica de Desarrollo de la Selva Peruana (Interethnic Association for the Development of the Peruvian Rainforest)

**AIZA:** Asociación de Autoridades Tradicionales Indígenas Zonal de Arica (Association of Indigenous Traditional Authorities of Arica)

**PNA:** Protected Natural Areas

**APIB:** Articulación de los Pueblos Indígenas de Brasil (Articulation of the Indigenous Peoples of

Brazil)

**ASP:** Áreas Silvestres Protegidas (Protected Wildlife Areas)

**BAPE:** Bases de Proteção Etnoambiental (Ethno-Environmental Protection Bases)

**IDB:** Inter-American Development Bank

**CANOB:** Central Ayorea Nativa del Oriente Boliviano

**CEDIA:** Corporación Ecuatoriana para el Desarrollo de la Investigación y la Academia

**CEJIS:** Centro de Estudios Jurídicos e Investigación Social (Center for Legal Studies and Social Research)

**CFPE:** Coordenação da Frente de Proteção Etnoambiental (Coordination of the Ethno-Environmental Protection Front)

**CGIIRC:** Coordenação Geral de Índios Isolados e Recém Contatados (General Coordination of Isolated and Recently-Contacted Indigenous Peoples)

**IACHR:** Inter-American Commission on Human Rights

**CIDOB:** Confederación

de los Pueblos Indígenas de Bolivia (Confederation of Indigenous Peoples of Bolivia)

**CIMI:** Conselho Indigenista Missionário

**CIRABO:** Central Indígena de la Región de la Amazonía de Bolivia (Indigenous Central of the Amazon Region of Bolivia)

**CITRMD:** Central de Comunidades Indígenas Tacana ii Río Madre de Dios

**CNDH:** Comisión Nacional de los Derechos Humanos (National Human Rights Commission)

**CNPq:** Conselho Nacional de Desenvolvimento Científico e Tecnológico (National Council for Scientific and Technological Development)

**COCALITIA:** Conselho de Chefes e Líderes da Terra Indígena Araribóia (Council of Chiefs and Leaders of the Araribóia Indigenous Land)

**COIAB:** Coordenação das Organizações Indígenas da Amazônia Brasileira (Coordination of Indigenous Organizations of the Brazilian Amazon)

**CONAP:** Consejo Nacional de Áreas Protegidas (National Council of Protected Areas)

**COPIRC:** Coordinación de Políticas para Pueblos Indígenas Reciente Contacto (Policy Coordination for Recently-Contacted Indigenous Peoples)

**COPLII:** Coordenação da Política de Proteção e Localização de Povos Indígenas Isolados (Coordination of the Policy for the Protection and Mapping of Isolated Indigenous Peoples)

**CPI-Acre:** Comissão Pró-Indígenas do Acre

**CPPIOSV:** Comité de Protección a Pueblos Indígena Originarios en Situación de Vulnerabilidad (Committee for the Protection of Vulnerable Native Indigenous Peoples)

**CTI:** Centro de Trabalho Indigenista

**DEM:** Digital Elevation Model

**DGFFS:** Dirección General Forestal y de Fauna Silvestre (General Forestry and Wildlife Directorate)

**DGPI:** Dirección General de Pueblos Indígenas (General Directorate of Indigenous Peoples)

**DIGEPIO:** Dirección General de Protección a Naciones y Pueblos Indígenas Originarios (General Directorate for the Protection of Native Indigenous Nations and Peoples)

**DMSPPIAV:** Dirección de Monitoreo y Seguimiento de Protección a Pueblos Indígenas en Aislamiento Voluntario (Directorate for the Monitoring and Follow-up on the Protection of Indigenous Peoples in Voluntary Isolation)

**DNIT:** Departamento Nacional de Infraestructura de Transporte (National Department of Transportation Infrastructure)

**DPPIAV:** Dirección de Protección de los Pueblos Indígenas en Aislamiento Voluntario (Directorate for the Protection of Indigenous Peoples in Voluntary Isolation)

**DPT:** Departamento de Protección Territorial (Territorial Protection Department)

**EAC:** Estudio Adicional de Categorización (Additional Categorization Study)

**EAPIL:** Equipe de Apoio aos Povos Indígenas Livres (Support Team for Free Indigenous Peoples)

**Eletronorte:** Centrais Elétricas do Norte do Brasil S. A.

**EPR:** Estudio Previo de Reconocimiento (Preliminary Recognition Study)

**EVU:** Equipo de Vigilancia de la Unión de Pueblos Indígenas del Valle de Javari (Monitoring Team of the Union of Indigenous Peoples of Vale do Javari)

**FENAMAD:** Federación Nativa del Río Madre de Dios y Afluentes (Native Federation of the Madre de Dios River and Tributaries)

**FEPP:** Fondo Ecuatoriano Populorum Progressio

**FPE:** Frentes de Proteção Etnoambiental (Ethno-Environmental Protection Fronts)

**FUNAI:** Fundação Nacional dos Povos Indígenas (National Foundation of Indigenous Peoples)

**FUNASA:** Fundação Nacional de Saúde (National Health Foundation)

**GTI PIACI:** Grupo de Trabajo Internacional para la Protección de los Pueblos Indígenas en Aislamiento y Contacto Inicial (International Working Group for the Protection of Indigenous Peoples in Isolation and Initial Contact)

**GTM:** Grupo de Trabajo de Metodología (gti piaci Methodology Working Group)

**Horonami:** Yanomami Organization of Venezuela

**IA:** Iniciativa Amotocoide

**IBC:** Instituto del Bien Común

**ILBo:** Informe Local Bolivia (Local Report Bolivia)

**ILBr:** Informe Local Brasil (Local Report Brazil)

**ILCo:** Informe Local Colombia (Local Report Colombia)

**ILEc:** Informe Local Ecuador (Local Report Ecuador)



**ILPy:** Informe Local Paraguay (Local Report Paraguay)

**ILPe:** Informe Local Perú (Local Report Peru)

**ILVe:** Informe Local Venezuela (Local Report Venezuela)

**INDEPA:** Instituto Nacional de Desarrollo de Pueblos Andinos, Amazónicos y Afroperuanos (National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples)

**INDI:** Instituto Nacional del Indígena (National Indigenous Institute)

**INFONA:** Instituto Forestal Nacional (National Forest Institute)

**IR:** Regional Report: Territories and Development, Indigenous Peoples in Isolation in the Amazon and Gran Chaco.

**IRM:** Regional Methodology Report. Principles and guidelines for the formulation of methodologies for recognizing the existence of indigenous peoples in isolation

**ISA:** Instituto Socioambiental (Socio-Environmental Institute)

**LIL:** Land is Life

**MADES:** Ministerio del Ambiente y Desarrollo Sostenible (Ministry of Environment and Sustainable Development)

**MAE:** Ministerio del Ambiente (Ministry of Environment)

**MAG:** Ministerio de Agricultura y Ganadería (Ministry of Agriculture and Livestock)

**MC:** Ministry of Culture

**MOPC:** Ministerio de Obras Públicas y Comunicaciones (Ministry of Public Works and Communications)

**MPI:** Ministerio de los Pueblos Indígenas (Ministry of Indigenous Peoples)

**MPF:** Ministerio Público Federal (Federal Public Ministry)

**NAWE:** Nacionalidad Waorani del Ecuador (Waorani Nationality of Ecuador)

**OAS:** Organization of American States

**OIPUS:** Organización Indígena del Pueblo Uwottüja del Sipapo (Indigenous Organization of the Uwottüja People of Sipapo)

**OIS:** Organización de los Pueblos Indígenas de Surinam (Organization of Indigenous Peoples of Suriname)

**ILO:** International Labor Organization

**NGO:** Non-Governmental Organization

**UN:** United Nations

**OPAN:** Operação Amazônica Nativa

**OPI:** Observatorio de Derechos Humanos de los Pueblos Indígenas en Aislamiento y Reciente Contacto (Observatory of Human Rights of Isolated and Recently-Contacted Indigenous Peoples)

**OPIAC:** Organización Nacional de los Pueblos Indígenas de la Amazonía Colombiana (National Organization of Indigenous People of the Colombian Amazon)

**OPIT:** Organización Payipie Ichadie Totobiegosode (Payipie Ichadie Totobiegosode Organization)

**ORPIA:** Organización Regional de Pueblos Indígenas del Amazonas - Venezuela (Regional Organization of Indigenous Peoples of the Amazon in Venezuela)

**ACTO:** Amazon Cooperation Treaty Organization

**PCA:** Plan de Contingencia Antropológico (Anthropological Contingency Plan)

**PI:** Pueblos Indígenas (Indigenous Peoples)

**PIA:** Pueblos Indígenas en Aislamiento (Indigenous Peoples in Isolation)

**PIACI:** Pueblos Indígenas en Aislamiento y Contacto Inicial (Indigenous Peoples in Isolation and Initial Contact)

**PIAV:** Pueblos Indígenas en Aislamiento Voluntario (Indigenous Peoples in Voluntary Isolation)

**PICI:** Pueblos Indígenas en Contacto Inicial (Indigenous Peoples in Initial Contact)

**ICESCR:** International Covenant on Economic, Social and Cultural Rights

**PIEN:** Pueblos Indígenas

en Estado Natural  
(Indigenous Peoples in their  
Natural State)

**PII:** Povos Indígenas  
Isolados (Isolated  
Indigenous Peoples)

**PIIRC:** Pueblos Indígenas  
Aislados y de Reciente  
Contacto (Isolated and  
Recently-Contacted  
Indigenous Peoples)

**PMC:** Plan de Medidas  
Cautelares (Precautionary  
Measures Plan)

**PNANMI:** Parque Nacional  
y Área Natural de Manejo  
Integrado Madidi (Madidi  
National Park and  
Integrated Management  
Natural Area)

**PNCAT:** Patrimonio  
Natural y Cultural Ayoreo  
Totobiegosode (Ayoreo  
Totobiegosode Natural and  
Cultural Heritage)

**PNDCh:** Parque Nacional  
Defensores del Chaco  
(Defensores del Chaco  
National Park)

**PNGATI:** Política Nacional  
de Gestão Territorial  
e Ambiental de Terras  
Indígenas (National  
Policy for the Territorial  
and Environmental  
Management of  
Indigenous Lands)

**PNNC:** Parques Nacionales  
Naturales de Colombia  
(National Natural Parks of  
Colombia)

**PRAS:** Programa de  
Reparación Ambiental  
y Social (Environmental  
and Social Remediation  
Program)

**PWA:** Programa Waimiri-  
Atroari (Waimiri-Atroari  
Program)

**RTKNN:** Reserva Territorial  
Kugapakori, Nahua, Nanti y  
otros (Kugapakori, Nahua,  
Nanti and other Territorial  
Reserve)

**SEAM:** Secretaría del  
Ambiente (Secretariat of  
Environment)

**SEAPIRC:** Servicio de  
Apoyo a las Políticas para  
los Pueblos Indígenas  
de Reciente Contacto  
(Policy Support Service  
for Recently-Contacted  
Indigenous Peoples)

**SERFOR:** Servicio Nacional  
Forestal (National Forest  
Service of Peru)

**SERNAP:** Servicio Nacional  
de Áreas Protegidas de  
Bolivia (National Service of  
Protected Areas of Bolivia)

**SESAI:** Secretaría Especial  
de Salud Indígena  
(Special Indigenous Health  
Secretariat)

**SFN:** Servicio Forestal  
Nacional (National Forest  
Service of Paraguay)

**GIS:** Geographic  
Information Systems

**SIM:** Sistema Integral de  
Monitoreo (Comprehensive  
Monitoring System)

**SIRC:** Sistema de  
Información sobre Pueblos  
Indígenas Aislados  
y Reciente Contacto  
(Information System on  
Isolated and Recently-  
Contacted Indigenous  
Peoples)

**IAHRS:** Inter-American  
Human Rights System

**SNC:** Secretaría Nacional  
de Cultura (National  
Secretariat of Culture)

**SPII:** Sistema de Proteção  
ao índio Isolado (Isolated  
Indigenous Protection  
Scheme)

**STF:** Supremo Tribunal  
Federal (Supreme Federal  
Court)

**TI:** Tierras Indígenas  
(Indigenous Lands)

**UNAP:** Unión de Nativos  
Ayoreo del Paraguay  
(Union of Ayoreo Natives of  
Paraguay)

**USAID:** United States  
Agency for International  
Development

**VMI:** Vice-Ministry of  
Interculturality

**Wataniba:** Socio-  
Environmental  
Working Group of the  
Venezuelan Amazon

**WWF:** World Wide  
Fund for Nature

**ZA:** Zona de  
Amortiguamiento  
(Buffer Zone)

**ZITT:** Zona Intangible  
Tagaeri Taromenane  
(Tagaeri Taromenane  
Intangible Zone)

**ZME:** Zonas de Manejo  
Especial (Special  
Management Zones)

**ZRAT:** Zona Intangible  
de Protección Integral  
de Reserva Absoluta  
Toromona (Toromona  
Absolute Reserve  
Comprehensive Protection  
Intangible Zone)

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# *Presentation* **FOR THE RIGHT TO EXIST**

## **GTI PIACI Secretariat Amazon Conservation Team - Colombia**

The International Working Group for the protection of Indigenous Peoples in Isolation and Initial Contact (GTI PIACI) is a collaborative alliance of 21 indigenous and indigenist organizations from 8 South American countries committed to promoting the rights of Indigenous Peoples in Isolation and Initial Contact. Our work focuses on promoting concrete actions for the defense of territories, respect for their ways of life and their autonomy, in accordance with the principles of no contact and their right to self-determination.

Since its creation in 2019, the GTI PIACI has promoted the development of tools and strategies for the protection of PIACI, based on respect for their self-determination. This “Regional Methodology Report (IMR) - Principles and Guidelines for the Formulation of Methodology for the Recognition of the Existence of Indigenous Peoples in Isolation” (hereinafter the Regional Methodology Report - IMR), is the result of a collaborative and comprehensive work coordinated by Antenor Vaz, which began in 2022 under the Land is Life Secretariat, and culminated with the current Secretariat under the Amazon Conservation Team (ACT).

The IRM aims to present principles and guidelines to guide Indigenous Organizations, NGOs and States in formulating their own methodologies for the recognition of the existence of a particular people in isolation, in a given context and specific territory.

It systematizes the methodologies for the recognition and protection of PIA and proposes principles and methodological guidelines for the recognition of the existence of PIA. This is an unprecedented initiative that involves the experience and knowledge of various indigenous organizations, indigenists, government institutions, indigenous scholars and experts.

The existence of indigenous peoples in isolation in South America is a complex and delicate reality, and the recognition of this existence requires a careful and responsible approach. The adoption of robust methodological principles and guidelines is fundamental to ensure the protection of these peoples and their territories, as well as to avoid actions that could jeopardize their physical and cultural integrity.

The Regional Methodological Report, by systematizing the principles and guidelines for the recognition of the existence of PIA, reinforces, in the pillar of the international legal framework, the following aspects:



- 1. Protection of Human Rights - with a biocultural approach:** Recognition of the existence of indigenous peoples in isolation is intrinsically linked to the protection of their fundamental human rights, including the right to life, health, territory and self-determination. Clear principles and guidelines help to ensure that recognition actions are carried out in accordance with international human rights laws and treaties, avoiding violations and abuses.
- 2. Respect of self-determination:** The decision to maintain isolation is a legitimate choice of these peoples, based on their own history, culture and perception of the world. The principles and methodological guidelines must respect this self-determination by ensuring its recognition.
- 3. Avoiding contact:** Forced contact with indigenous peoples in isolation can have devastating consequences, such as the spread of diseases for which they have no immunological memory, the exploitation of their territories and natural resources, and the disruption of their social and cultural organizations. Clear principles and guidelines help prevent forced contact by establishing protocols for action in the event of sightings or evidence of their presence.
- 4. Scientific basis and solid evidence:** Recognition of the existence of indigenous peoples in isolation must be based on solid evidence and rigorous scientific methodology. This includes the collection and analysis of anthropological, ethnographic, linguistic, archeological and environmental data, as well as the use of technologies such as remote sensing and territorial monitoring.
- 5. Transparency and accountability:** The reconnaissance process should be transparent and accountable, involving the participation of different social actors, such as indigenous organizations, government agencies, researchers and civil society in general. It is important that the information gathered and the decisions made are disclosed in a clear and accessible manner, ensuring accountability and social control.
- 6. Continuous monitoring and evaluation:** Recognition of the existence of indigenous peoples in isolation is an ongoing process that requires follow-up. It is necessary to monitor the situation of these peoples and their territories, identify new threats and vulnerabilities, and adjust protection strategies as necessary.

**The importance of the IRM is due to the fact that, in order to guarantee the rights of the PIA, the premise is the recognition of their existence. It is their right to exist.** This recognition implies a set of methodological procedures based on guiding principles that guarantee, above all, respect for isolation as a clear expression of the exercise of the right to self-determination of these peoples and a guarantee for their physical and cultural survival.

By recognizing the existence of a PIA, from the perspective of the State, their status as subjects of law is recognized, thereby breaking a process of invisibility to which these peoples are subjected.

This document is a fundamental tool for strengthening the legal recognition

of PIA in South America, providing principles and methodological guidelines to the States and organizations working for their protection and unifying technical and scientific criteria for the recognition of these peoples and their territories, positioning the situation of the PIA in key decision-making spaces. The report represents a milestone in the defense of PIA, the result of the commitment and collaboration of numerous indigenous and civil society organizations.

This work continues to evolve and is key to further progress in the protection of these peoples and their territories in the face of the growing threats they face.

Bogotá, 2025



## Foreword

# THE FIGHT FOR HUMAN RIGHTS AND RECOGNITION OF INDIGENOUS PEOPLES IN ISOLATION

*Hindou Oumarou Ibrahim*

*President, Coordinator of the Association of Indigenous  
Women and Peoples of Chad (AFPAT)*

*Chairperson of the United Nations Permanent Forum on  
Indigenous Issues (UNPFII)*

As an Indigenous Mbororo woman from Chad, I deeply understand what it means to live in harmony with nature and to defend, under adverse conditions, our dignity, our lands and our fundamental rights. In my role as President and coordinator of the Association of Indigenous Women and Peoples of Chad (AFPAT) and currently as Chair of the United Nations Permanent Forum on Indigenous Issues, I have learned that our struggle transcends the local and connects to a network of Indigenous resistances around the world. This struggle is a collective effort to preserve our identities, protect our ancestral territories and ensure that human rights are not privileges, but that they are inherent to every person and every people, and that they should be a universal reality.

Indigenous Peoples in Isolation in South America face challenges that resonate with the experiences of other isolated communities in Africa and other regions of the world. The self-determination of these peoples, expressed in the decision to remain in isolation, is a powerful statement of their desire to live in accordance with their values, traditions and relationships with their environment. However, this essential right is often violated. The invasion of their territories, the exploitation of natural resources and the constant threat of extractive activities not only undermine their existence, exposing them to extreme epidemiological risks, but also deeply erode their spiritual and cultural connection to the land they inhabit which can be a threat for our planet and the balance existing among its ecosystems. These acts of aggression are often driven by an unsustainable environmental economic model.



Today, in the context of efforts towards a global energy transition, the threats deriving from extractivism are sadly still current, particularly when around 50% of the minerals that are critical to that transition sit in the territories of Indigenous Peoples around the world, creating a situation that too often will run counter to basic principles of justice and human rights. Today more than ever, the international community and the private sector need to respect the free, prior and informed consent of the Indigenous Peoples in isolation and their right to reject potentially lethal projects in their territories: NO, MEANS NO!

It is crucial to understand that the territories of Indigenous Peoples in isolation are not only a refuge for their ways of life. Their existence plays a fundamental role in conserving biodiversity, addressing climate change issues and maintaining global ecological stability. They protect the heart and lungs of the planet and, in doing so, benefit all of humanity. Recognizing this fact also means recognizing the intrinsic value of their self-determination. States have a moral and legal obligation to ensure that the decision of these peoples to remain isolated is respected by adopting urgent and effective measures to ensure the comprehensive protection of their territories under the principle of NO CONTACT. This implies not only the demarcation of their lands, but also their defense against any external intervention that would put their survival and culture at risk.

The Regional Methodology Report, focusing on the Principles and Guidelines for the Recognition of the Existence of Indigenous Peoples in Isolation in South America, emerges as a key tool to complement and enrich the 'Guidelines for the Protection of Indigenous Peoples in Isolation and Initial Contact in the Amazon Region, the Gran Chaco and the Eastern Region of Paraguay', published by OHCHR in 2012.

In addition to reinforcing the guiding principles already established, the report moves forward by providing detailed and informed guidelines for the formulation of scientific and Indigenous methodologies to recognize the existence of Indigenous Peoples in Isolation. This methodological approach represents an essential element in ensuring the respect, protection and preservation of the rights of these peoples, in line with international human rights standards. Recognizing the existence of Indigenous Peoples in Isolation is the first step towards signing away their existence and territorial rights. This report not only documents the methodologies that have employed by states, Indigenous Peoples and civil society organizations, but also provides in-depth analyses of the gaps in the implementation of inclusive public policies that have been applied in South America. Through a detailed mapping of national and regional experiences, the report presents essential lessons and recommendations aimed at ensuring full respect and protection of the rights of these peoples. It sets out a practical guide for the creation and implementation of policies that promote justice, equality and sustainability.

My hope is that this report will inspire states, international organizations and other partners to take firm and committed action to protect Indigenous Peoples in Isolation. It is not enough to recognize their existence; we must ensure that their rights are protected and their territories remain inviolable.

I welcome this regional contribution as a significant milestone. It represents a step towards the inclusion of the most silenced voices in decisions that directly affect their lives and territories. Let us protect our cultural and natural diversity, remembering always that by safeguarding the rights of Indigenous Peoples we protect the very essence of our humanity. To honor the existence of Indigenous Peoples in Isolation is also to honor the universal values of dignity, solidarity and respect.

New York, 2025





# INTRODUCTION

**Antenor Vaz<sup>1</sup>**

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For Indigenous Peoples (PI), the 1980s were marked by important political and regulatory changes in South America, especially for Indigenous Peoples in Isolation and Initial Contact (PIACI), as movements of indigenous organizations emerged as a form of self-representation and autonomy.

In 1987, in Brazil, the National Foundation of Indigenous Peoples (FUNAI) established the policy of no contact as a prerogative of self-determination for Indigenous Peoples in Isolation (PIA), radically changing the paradigm of “forced contact” with these peoples as a premise of protection, which had been practiced for centuries out of respect for the self-determination of these communities.

This new policy became an example and source of direct technical assistance to other Amazonian countries in South America.

Convention 169 of the International Labor Organization (ILO), a binding document on the rights of indigenous and tribal peoples in independent countries, was adopted in 1989 and is currently the main treaty that expressly recognizes the rights of these groups.<sup>2</sup>

In this context, there is a growing participation of the Organization of American States (OAS) and the United Nations (UN) in indigenous matters, with the purpose of contributing to political changes related to Indigenous Peoples (Torres *et al.*, 2021).

Thirteen years ago, in 2012, the Office of the United Nations High Commissioner for Human Rights (OHCHR) published the document “Guidelines for the Protection of Indigenous Peoples in Isolation and in Initial Contact of the Amazon Region, Gran Chaco and the Eastern Region of Paraguay”. The guidelines constitute the first document issued by a United Nations body, in light of human rights, specifically on PIACI.

In 2013, the Inter-American Commission on Human Rights (IACHR), which is the main and autonomous body of the Organization of American States (OAS), published the text “Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: Recommendations for the full respect of their human rights”.

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<sup>1</sup> International consultant on protection methodologies and policies for Isolated and Recently-Contacted Indigenous Peoples (PIIRC).

<sup>2</sup> The countries with Amazonian regions that have ratified this international treaty are Colombia (August 7, 1991), Bolivia (December 11, 1991), Peru (February 2, 1994), Ecuador (May 15, 1998), Venezuela (May 22, 2002) and Brazil (July 15, 2002). Among the Amazonian countries, only Guyana and Suriname have refrained from ratifying such instrument. In the case of French Guiana, the State of France has also refrained from ratifying it to date. Paraguay, which does not belong to the Amazon region, ratified the treaty on June 7, 1989.



These texts constitute vital instruments that enable a more effective contextualization and application of international human rights law to protect these peoples from the extreme vulnerability they face and the heightened risk of extinction to which they are exposed.

Despite the importance of the OHCHR/UN guidelines and the IACHR/OAS report to support the formulation of policies for the protection of PIACI, and to contextualize the unique situation of vulnerability of these peoples, both provide few elements (only basic premises) for the formulation of methodologies for recognizing the existence and identification of PIACI.

In this regard, the “Regional Methodology Report (IRM): principles and guidelines for the formulation of methodologies for recognizing the existence of Indigenous Peoples in Isolation”, which we provide herein, seeks to be a complementary tool to the OHCHR/UN guidelines (2012) and the IACHR/OAS report (2013).

According to the text “Territories and Development, Indigenous Peoples in Isolation in the Amazon and Gran Chaco-IR” (Vaz, 2019), in South America, there are 185 records of PIA. Of these, 66 cases are “confirmed records”, resulting in 119 records which, for the States, do not exist. However, in addition to the 185 records, there is also a set of records recognized by indigenous peoples and civil society organizations (Non-Governmental Organizations –NGOs–) that are not included in the lists submitted by these States; these data are shown in [Table 1](#).

The following table ([Table 2](#)) shows an update of the systematization of PIA records, available in the local reports of the seven South American countries, with data from 2024. We emphasize that the official recognition of the existence of PIA is given through the governing bodies of the States; however, several civil society and indigenous organizations, due to the absence of the State, promote actions for the protection and recognition of PIA,<sup>3</sup> and, consequently, recognize the existence of these peoples. The results of these initiatives are submitted to the competent bodies of each State, requesting not only recognition, but also appropriate measures to safeguard their rights. The information is segmented and named as follows: “Confirmed. State” corresponds to the number of records officially recognized by the State; “Confirmed NGO” corresponds to the number of records recognized by organized civil society organizations. The + symbol means that, in addition to those confirmed by the State, there are more than this amount, and “To be Confirmed State” corresponds to the number of records not yet officially confirmed by the States.

This research involved 16 civil society organizations (indigenous and non-indigenous), members of the GTI PIACI, involving 43 researchers specialized in PIACI, lawyers, communicators, anthropologists, biologists, geo-processing technicians, indigenous people with expertise in non-contact life, among others. Therefore, we note that the number of PIA records (recognized by NGOs) could be higher, since not all civil society organizations were researched.

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<sup>3</sup> For indigenous peoples and organizations, the recognition of PIA is independent of the official recognition of the State. They demand this recognition because they are aware of the duty of the States to implement protection systems for these peoples in order to safeguard their rights.

Table 1. Summary of 4PIA records in South America (2019)

	Confirmed:	To be confirmed:
<a href="#">Bolivia</a>	2	7
<a href="#">Brazil</a>	28	86
<a href="#">Colombia</a>	2	16
<a href="#">Ecuador</a>	3	4
<a href="#">Paraguay</a> <sup>5</sup>	2	5
<a href="#">Peru</a>	26	0
<a href="#">Venezuela</a>	3	1
<a href="#">PIA</a>	66	119
<b>Total: 185</b>		

Source: Vaz (2019).

In [Table 2](#), we break down the information on recognized (confirmed) records and distinguish which are confirmed by the States and which are confirmed by NGOs.

Comparison of the two tables shows us an increase in “to be recognized” (confirmed) PIA records, from 119 in 2019, to 128 in 2024. The total number of PIA records in South America increased from 185 in 2019, to 188 in 2024. We emphasize the number of PIA records confirmed by indigenous peoples and organizations, and NGOs, that are not recognized by the States: 31 records.

The importance of the IRM lies in the fact that, in order to guarantee the rights of PIA, the premise is the recognition of their existence. This recognition implies a set of methodological steps based on guiding principles that guarantee, above all, respect for isolation as a clear expression of the exercise of the right to self-determination of these peoples, and a guarantee for their physical and cultural survival.

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<sup>4</sup> The form of recognition and identification of a given PIA directly interferes with the number of records of these peoples in each country. In order to register an indigenous people in isolation, or a segment of it, Brazil takes the geographic position and not the possible ethnicity of the people in question. As Luis Felipe Torres (2022) states: “It is necessary to consider that the number of existing peoples will depend on how they are identified in each country. For example, the Brazilian government distinctly recognizes groups such as the Mashko of the Laco river, the Mashko of the Chandless river and the Mashko of the Envira river, while in Peru, the Mashco Piro are considered part of a single people, regardless of their geographic reference” (p. 28).

<sup>5</sup> Only one PIA has been identified in the Paraguayan Chaco, which consists of several named groups that are differentiated from each other by historical issues that determine differences in their self-description as distinct groups. Of these groups, two are confirmed and five are yet to be confirmed. The Paraguayan State does not formally recognize any of them.



**Table 2.** Summary of PIA records in South America (2024)

	<u>Confirmed State:</u>	<u>Confirmed NGO:</u>	<u>To be Confirmed State:</u>
<u>Bolivia</u>	3	+6	6
<u>Brazil</u>	28	+5	88 <sup>6</sup>
<u>Colombia</u>	2	2 <sup>7</sup>	16
<u>Ecuador</u>	2	2	2
<u>Paraguay</u>	0	2	2
<u>Peru</u>	25	+10	10
<u>Venezuela</u>	0	4	4
<u>PIA</u>	60	+ 31	128
Total: 188 <sup>8</sup>			

**Source:** author.

The preparation of the IRM is an initiative of the International Working Group for the Protection of Indigenous Peoples in Isolation and Initial Contact (GTI PIACI), and was created from the systematization and analysis of local reports,<sup>9</sup> attached to this IRM, from seven South American countries (Bolivia, Brazil, Colombia, Ecuador, Paraguay, Peru and Venezuela),<sup>10</sup> with “confirmed records”<sup>11</sup> of PIA.

The seven ILs provide a set of policies, mechanisms, techniques, procedures and actions developed by Indigenous Peoples and their organizations, by civil society organizations (NGOs) and by States to recognize the existence of PIA. They were prepared based on a methodology and document structure, defined and approved by the<sup>12</sup> GTI PIACI member organizations, in order to enable a comparative analysis.

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<sup>6</sup> Of these 88 records, there are three that are not on the official list of FUNAI records.  
<sup>7</sup> Although NGOs do not confirm the presence of PIA, in agreement with the Ministry of Interior, they can support the preparation of the Official Studies established in Decree 1232 of 2018.  
<sup>8</sup> The total number of PIA records in South America is the sum of the records confirmed by the States and the records to be confirmed by the States (including those confirmed by NGOs).  
<sup>9</sup> The local reports were prepared by the following GTI PIACI member organizations: ILBo-Bolivia: CEJIS and CITRMD; ILBr-Brazil: EAPIL/CIMI, COIAB, CTI, OPI and Instituto Maira; ILCo-Colombia: ACT and OPIAC; ILEc-Ecuador: FEPP and LIL; ILPe-Perú: FENAMAD; ILPy-Paraguay: IA; ILVe-Venezuela: Wataniba, ORPIA, OIPUS and Horonami.  
<sup>10</sup> The Organization of Indigenous Peoples of Suriname (OIS) is in the process of gathering information on the evidence to recognize the existence of PIA. In this regard, there is an interview with Siritto Yana Aloema (OIS) conducted by Daniel Faggiano (Instituto Maira) on the matter.  
<sup>11</sup> For the purposes of this IRM, we consider “confirmed records” to be those PIA records institutionally and officially recognized by the States. On the other hand, we also show separately, in this IRM, the records recognized by indigenous peoples or by NGOs, not listed as officially recognized by the States.  
<sup>12</sup> The GTI PIACI is composed of twenty-one indigenous and civil society organizations

### Map 1. PIA records in South America



**Source:** GTI PIACI (2024).

Data Sources: Location of Isolated Indigenous Groups: (Territorios generalized for confidentiality). Brasil: FUNAI, ISA. Bolivia: Iniciativa Amotocodie. Colombia: Amazon Conservation Team. Ecuador: Yasunidos. Peru: AIDSESP, FENAMAD, ORPIO. Paraguay: Union Nativa Ayoreo del Paraguay, Iniciativa Amotocodie. Venezuela: Wataniba. Adapted from Land Is Life. 2019. Informe Regional de Pueblos Indígenas Aislados (PIA) Territorios y Desarrollo en la Amazonia y Gran Chaco. Amazon biogeographic region: RAISG. 2023. Gran Chaco biogeographic region: The Nature Conservancy

The IRM seeks to provide principles and guidelines for indigenous organizations, NGOs and States to formulate their own methodologies for recognizing the existence of a given PIA, in a particular context and specific territory.

On the other hand, the methodologies for recognizing the existence of PIA, implemented by NGOs and States, constitute contextual mechanisms and procedures, referenced in their legal, political, anthropological, linguistic and epistemological apparatuses. As a general rule, and without exception, in respect for self-determination and the principle of no contact, the methodologies do not incorporate the active search for the indigenous peoples themselves, but rather their existence seeks to prove that they are present through the identification of the traces and signs they leave in their coexistence with the forests.

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from South America. More information can be found at the following link: <https://www.pueblosaislados.org/miembros>.



The IRM is divided into two large sections that are intended to be independent. However, parts of some chapters are repeated in the second section. These sections are:

1. Regional analysis of methodologies for recognizing the existence of PIA in South America.
2. Regional report on principles and guidelines for the formulation of methodologies for recognizing the existence of PIA in South America.

The regional analysis, as a synthesis of the analysis of local reports, provides us with a rich insight into practices and procedures, especially indigenous methodologies of recognition, protection and coexistence with PIA. It also adds holistic knowledge and wisdom based on economic, social, spiritual and cultural aspects, closely related to their beliefs, lands, territories and natural resources, which they have occupied and used for millennia. These “indigenous methodologies” reflect the way in which indigenous peoples produce knowledge about themselves and others.

The second part of the IRM includes a set of guiding principles that should guide methodologies for recognizing the existence of PIA, based on a regional analysis of the different contexts in which PIA are experienced in South America. The IRM defines the scope and authorities for its application, the methodologies for recognizing the existence of PIA, as well as the national and international human rights regulatory frameworks applicable to these peoples. Finally, it provides a set of guidelines for the development of multidisciplinary teams, basic criteria and guidelines for the formulation of methodologies for recognizing the existence of PIA, as well as a list of evidence about the existence of PIA and the most common techniques to confirm such evidence.

We emphasize our effort to introduce the procedures, techniques and protocols used by indigenous peoples in the relationship, “coexistence”, protection and recognition of PIA. Such protocols, not systematized in writing, pose a great challenge for their acceptance and incorporation by States, academia and NGOs. We also recorded the different ways in which States and NGOs act in the search to confirm the existence of these PIA, always seeking to align them with the scientific precepts and concepts that frame the entire formulation of methodologies for recognizing the existence of these peoples in South America.

We must recognize the importance of archaeology, anthropology and contemporary biological sciences in the confirmation of the existence of PIA, through scientific arguments that legitimize the millenary knowledge of indigenous peoples and contemporary indigenists in the search for evidence and the consequent confirmation of PIA.

Since this IRM addresses such specific issues, it requires the reader to be familiar with the topic of PIACI and, therefore, it is suggested that the documents produced by the GTI PIACI<sup>13</sup> and those produced by the UN and the OAS be read beforehand.

Happy reading!

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<sup>13</sup> For more information, see the following links: <https://www.pueblosaislados.org>; [https://www.pueblosaislados.org/\\_files/ugd/fe48e9\\_0beada14ea094cf3a591a08f927e-a25f.pdf](https://www.pueblosaislados.org/_files/ugd/fe48e9_0beada14ea094cf3a591a08f927e-a25f.pdf) and <https://en.pueblosaislados.org/centro-de-conocimiento>.

# 1.

Regional analysis of methodologies for recognizing the existence of Indigenous Peoples in Isolation in South America





# 1.1

## Methodology for the preparation of local reports and Regional Methodology Report

In 2019, through the preparation of the Regional Report (Vaz, 2019), a series of recommendations were provided with a view to strengthening the protection of PIA in South America. These recommendations highlighted the following points: 1) the necessary regional articulation of civil society (leading later to the creation of the GTI PIACI); 2) the deepening of methodologies for recognizing the existence of PIA (hence the reason for this IRM); 3) the need to carry out health diagnoses; 4) the preparation and strengthening of public protection policies in the States (hence the exchanges developed); 5) the adaptation of consultation processes to the impacts on territories with PIACI presence (hence the advocacy with States and multilateral organizations); 6) a better understanding of the regional development model, agro/extractivist/exporter (hence the ongoing research with experts from the National Council for Scientific and Technological Development (CNPq),<sup>14</sup> “Indigenous peoples and global policy”) and 7) advocacy, together with multilateral organizations and States, for the protection of PIACI, among others.

At the meetings of the International Working Group for the Protection of Indigenous Peoples in Isolation and Initial Contact (GTI PIACI) (Panama in 2021 and Asunción in 2022), the aforementioned recommendations were further developed and a regional analysis was decided on the different methodologies for recognizing the existence of PIA in eight countries,<sup>15</sup> with records of these peoples, in South America.

At the GTI PIACI Meeting in Asunción, a methodological proposal submitted by Antenor Vaz, entitled “Research proposal for the formulation of regional guidelines to recognize the existence of Indigenous Peoples in Isolation (PIA)”, was discussed. With the approval of the Meeting, a Methodology Working Group (GTM) was established, comprised of focal points from each member organization, to discuss the methodological proposal submitted and commence the research process. Finally, at the GTI PIACI 2024 Meeting in Bogota, a step forward was taken when the content of the IRM was discussed.

The methodological proposal approved by the GTM for the preparation of local reports proposes a review of the methodologies used to recognize the existence of PIA in each of the eight South American countries with confirmed records of PIA, based on two resources for the collection of data and information: documentation review and interviews.

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<sup>14</sup> Body to promote research. Until 1971 its name was Conselho Nacional de Pesquisa (National Research Council), but its acronym CNPq is still used.

<sup>15</sup> Bolivia, Brazil, Ecuador, Colombia, Paraguay, Peru, Suriname and Venezuela.



First, an exhaustive documentation review was carried out using a wide range of documents, including internal documents from public institutions, academic publications, official public documents and testimonies provided by competent authorities. This documentation review seeks to identify and systematize the concepts and principles that have guided the entire process.

The documents collected from institutions during the research were analyzed to identify compatibilities, deviations, gaps and suggestions so as to qualitatively understand the actions carried out.

In addition, consideration will be given to the anthropological and historical aspects inherent to the research, given the cultural and contextual diversity involved.

Second, interviews were used as a key technique for data collection. The interviews were semi-structured and included a set of open-ended and closed-ended questions. Different actors involved in the protection and confirmation of PIA were interviewed. These actors include key people from Indigenous Organizations, members of the GTI PIACI, as well as representatives of State institutions that carry out actions related to the recognition and protection of PIA. Specialists, both indigenous and non-indigenous, involved in PIA protection or recognition activities or reflecting on said topic, were also included.

This methodology is based on a combination of documentation sources and direct knowledge of the actors involved, which allows for a complete and deep understanding of the practices and challenges surrounding the recognition of the existence of PIA. The interviews provided a human and experiential perspective that complemented the documentation review, while the latter helped contextualize and enrich the information gathered through interviews (ILEC, 2024, p. 4).

This methodological proposal is based on research, mainly qualitative, as a guide for all the procedures to be developed, with indigenous organizations, civil society organizations, public institutions and interviewees, as well as on the analysis and systematization to be carried out in the documents.

At the request of the methodological working group, a proposal was formulated for the structure and content of local reports to be prepared. It was intended to enable a comparative analysis of their contents, based on the common thematic structure.

The analysis of local reports evolved into a regional analysis (I. Regional analysis of methodologies for recognizing the existence of PIA in South America). Finally, a unified document is proposed (II. Regional report on principles and guidelines for the formulation of methodologies for recognizing the existence of Indigenous Peoples in Isolation), from the perspective of the self-determination of these peoples.

The preparation of these principles and guidelines, based on practices already developed, aims to provide tools to indigenous and civil society organizations, States and multilateral agencies for the improvement and formulation of their own methodologies for recognizing the existence of PIA in a given context and specific territory.

As the Local Report Paraguay (ILPY, 2024) reminds us, which we will discuss later, the recognition of a given PIA goes beyond

its physical existence or territorial scope. Groups that have determined, for whatever reason, to remain aloof from the rest of the human world pose a challenge to the modern way of life and its meanings, which can be framed within a spirituality that provokes the “hegemonic other” by confronting it with its own contradictions and inconsistencies (p. 7).



# 1.2

## Concepts

The methodologies for recognizing the existence of PIA are a set of rules, procedures and concepts adopted to carry out research in order to systematize the evidence of the existence of a given indigenous people in isolation, in a given context and specific territory. We seek to prove the evidence and not the indigenous person per se.

We emphasize that there is no single methodology for recognizing the existence of PIA, as specific cultural and contextual adaptations are necessary for each context (political, geographic, economic, legal and cultural) of a given people in isolation.

The implementation of methodological practices of recognition and identification of PIA, based on the self-determination of these peoples, led their agents, for pragmatic reasons, to choose between “direct actions” or “indirect actions”. This option/dichotomy generated discussions, often without taking into account the specific contexts of each case analyzed.

For the purposes of this IRM, we will adopt the following concepts:

### 1.2.1 *Direct methodology for the recognition of PIA*

Direct methodologies for the protection and recognition of the existence of PIA are understood as the procedures, strategies and techniques developed through human observation (observational research) in direct field expeditions (provided that the presence of PIA in the region is not proven), the collection of information from bibliographic research, oral and written reports (information elements from third parties) and the analysis of images (mechanical or electronic observation) with the purpose of collecting data, evidence and phenomena that demonstrate the existence of PIA in a given context and specific territory.

The direct methodology, in addition to verifying, in the field, the evidence reported by primary and secondary sources, also plans and executes expeditions in the forest when it is assumed that PIA are not making use of certain areas, with the objective of collecting new testimonies that support the recognition of these peoples. Such evidence can demonstrate territorial occupation, as well as the possible threats to which PIA are subjected.

The search for new evidence is what differentiates this methodology from the indirect methodology, which we will conceptualize below.

### 1.2.2 *Indirect methodology for the recognition of PIA*

Indirect methodologies for the protection and recognition of the existence of PIA are understood as the procedures, strategies and techniques developed through human observation (observational research), the collection of bibliographic, oral and written reports (information elements from third parties, primary and

secondary sources), confirmed or refuted by means of field expeditions (provided that the presence of PIA in the region is not proven), analysis of satellite or drone images (mechanical or electronic observation), etc., with the purpose of collecting evidence and phenomena, as well as their effects on other events and people, in order to recognize the existence of PIA in a given context and specific territory.

The indirect methodology does not promote field expeditions to collect new evidence, beyond that reported by third parties.

### **1.2.3 *Indigenous methodologies for the recognition of PIA***

Indigenous methodologies for recognizing the existence of PIA are understood as the methods, procedures, strategies and research techniques adopted by PIs, taking into account the specificities of each people. As a whole, they are conceived on the basis of diverse cognitive practices: their ancestral knowledge, their millenary wisdom, the material, spiritual and cultural interdependence established with their territories, natural resources and the coexistence between networks of relationships (which also take into account the transcendental dimension, the forces of nature, entities, spiritual sources), which share the same historical and social context and are an integral and indissoluble part of their worldviews.

### **1.2.4 *Scientific methodology***

The scientific methodology is understood as a set of intellectual and technical procedures used to achieve knowledge.

It should be noted that the subject of study of this IRM is the PIA. These peoples, who in addition to their physical existence involve subjectivities, cultures, contexts and are subjected to pressures in their territories, which translate into constant forced escapes, and establish intrinsic relationships with the environment based on different worldviews of being, existing and doing, lead us to quantify the definition of scientific methodology applied to the exact sciences, which has already been introduced.

### **1.2.5 *Scientific methodology derived from human sciences***

The scientific methodology derived from human sciences and, in this case, applied to the recognition of PIA, is understood as a set of intellectual (conception of the world and theories of knowledge) and technical procedures used to translate into theoretical language the elements of historical life, in its broadest meaning, reported and observed by third parties and verified by specialized technical teams in the recognition of indigenous evidence in isolation, located in the forest. In this context, the dimensions of subjectivity are not discarded, and recourse is made to the transformation of structures, of consciousness never separated from social conditioning and class conflicts within the ethnohistorical process.

## 1.2.6 *Indigenous Peoples in Isolation*<sup>16</sup>

These are indigenous peoples or segments of indigenous peoples who have no contact with the majority population, and who also tend to shy away from any interaction with people outside their group.<sup>17</sup>

The concepts attributed to PIs that reject interactions with outsiders have always been the subject of much discussion and lack of consensus. In these reflections, little is said about the way in which the indigenous people themselves, with contact histories, think about these definitions.

## 1.2.7 *Concepts on Contacted Indigenous Peoples according to PIA*

In an analysis of “official” nomenclatures, in Brazil, Lucas Artur Brasil Manchineri, an indigenous leader and researcher, coined the term “distrustful people” to refer to all “indigenous people who decided not to believe in strangers”. He also states that “isolated” peoples, in fact, do not know the purpose of those who come to meet them and, therefore, are “distrustful”. According to Brasil Manchineri (2019), “Indigenous peoples have long suffered from the misnomers given by whites [non-indigenous], since the beginning of the contacts of the colonizers of America” (p. 170). From the point of view of their people, the memory of the contact says a lot about the choices of their [isolated] relatives. The Manxineru remember well how they were enslaved, raped and killed (cf. Albert and Ramos, 2000), so it seems more appropriate to attribute the choice of those who do not establish contact with other societies to a lack of confidence in their attitudes, which, for them, is historically very well justified (ILBr, 2024, p. 9).

Broadening the reflection, some representatives of the Wai Wai, Kahyana, Katxuyana, Heskaryana (Brazil) and other Yana indigenous peoples raised the debate on the concept and term “isolated”. During the training workshop within the scope of the project carried out by Centro de Trabalho Indigenista (CTI), in 2016, in Oriximiná (PA), Brazil, João do Vale Pekirirua Kaxuyana, an indigenous elder of the Katxuyana people, who in the 1970s lived with an Ingarëana group in the upper Kaspakuru river, a region where there is reference to isolated peoples, according to FUNAI data, described:

<sup>16</sup> “Isolation should not be understood as a primary condition, but as a result of historical events. To avoid the connotations of primordiality embedded in the notion of contact, the term voluntary isolation was coined to emphasize the agency of indigenous peoples (Shepard, 1996, 2016). However, this term is not neutral either. Although it is partly a decision of the indigenous peoples, isolation cannot be understood as completely voluntary, but as a necessity in a hostile context for their survival” (Torres *et al.*, 2021, p. 63).

<sup>17</sup> United Nations definition found in the Guidelines for the Protection of Indigenous Peoples in Isolation and in Initial Contact of the Amazon Region, Gran Chaco and the Eastern Region of Paraguay, A/HRC/EMRIP/2009/6 09-14447, 2012.



For us there is no single type of isolated person as you karaiwa would call it. We have our relatives who have always lived like that, far away from some and close to others. We have never lived all together, we have always had our own way of living and we know at least three types of isolated relatives. Those relatives with whom we lived, but with whom we no longer live because some reason separated us, and in this case we were separated because we were taken to another faraway place, those relatives we always knew were there, they live there, but we do not see them in person out of respect for their traditions, and they also respect ours. And those relatives who have always existed in these woods, but we have never seen them and will never see them, they know we exist and we know they do too, but our encounters are different, and not in person. So this has always existed in our lives long before the contact of any karaiwa (João do Vale Pekirirua Kaxuyana, interview in January 2024) (ILBr, 2024, p. 10).

Therefore, when considering these concepts and terms from the perspective of PIA, we should contemplate the diverse forms of existence of these peoples that may not align with non-indigenous definitions of "isolation". It should be noted that the comments and reports submitted by those who live or share territory with these peoples are intended to enrich the debate on the role and recognition of PIA in the protection of these peoples, going beyond what is often considered a recent approach. From these reports, and as we will see throughout this report, we can affirm that the approach has always been present in a broad and integrated way of life of indigenous peoples. However, its public and external projection is somewhat more recent, especially as a result of state protection policies that have generated a primary space for this discussion (ILBr, 2024, pp. 10-11).

The Ayoreo people use, in their everyday language, the expression "our brothers/relatives living in the forest". They do not question the use of "isolated groups or peoples", and express this in their interactions with non-indigenous people; however, the colloquial way of expressing their relationship with them ("relatives living in the forest") shows that they do not see them as "isolated", but rather that they are not interested in establishing contact and want to continue living as they have done up to now. Interviews conducted with people who established contact in 2004 (the last event of leaving the forest), show that "the people who live in the bush" (PIA ayoreo groups) are very distrustful of those who "wear clothes" (which includes the Ayoreo already contacted). The same has been expressed by elders and adults who have reflected on the non-recognition of contacted Ayoreo by the uncontacted, in situations of involuntary approach during hunting or gathering trips in shared areas. In this regard, the concept coincides with what was expressed by the indigenous leader Lucas Manchineri (*vide supra*) about the "distrustful people".

In the Colombian Amazon context, where most of the peoples in isolation are believed to live, the indigenous communities of the territories bordering areas with the presence or possible signs of the presence of PIA consider, in the vast majority





of cases, that the appropriate name to refer to them is Indigenous Peoples in their Natural State (PIEN), as stated in the workshop for the dissemination of Decree 1232 among the communities of the Association of Traditional Indigenous Authorities of the Arica Zone (AIZA), held in 2019:

The appropriate name to refer to them is peoples in their natural state, since their creator gave them everything for them to live in their territory of origin. Peoples in their natural state have their own government, their own education and their own health system (ACT, 2023, s. p.).

The denomination of natural state evokes a strong relationship of PIA with the sites of origin, primordial cosmogonies, knowledge systems and genuine socio-cultural practices that have not been transformed, precisely due to the condition of isolation. Thus, despite possibly being related to other Contacted Indigenous Peoples, PIA are believed to have their own ways of protecting territory and environment, their own knowledge systems and their own practices.

It has been stated that PIA are segments or clans of contacted groups that at a certain point in history were able, through the strength of their traditional knowledge, rituals and spiritual precautions, to anticipate the threats associated with the arrival of non-indigenous people in their territories. In order to avoid a destiny already marked by thought, they made the decision to reject this contact, going deep into the jungle as a strategy of protection against the transformations that would jeopardize their integrity, their survival and socio-cultural stability.

However, the condition of isolation does not imply that PIA are isolated from the protection network of the territorial system that integrates all Amazonian peoples, nor from other forms of relationship and non-physical contact that are possible in indigenous knowledge systems. Therefore, for the neighboring indigenous peoples, their protection is fundamental not only as a mechanism to guarantee their rights, but also because they are part of a broad system of territorial protection in which they play a relevant role. For example, some indigenous people of the lower Caquetá river in Colombia state that

the mentors or shamans of isolated groups of the Puré river sit at night in their malocas, on their ritual benches, thinking how to prevent outsiders from entering their territory. They use their minds to block its entrances through rivers, streams and roads, thereby protecting their world. By doing this, they not only prevent physical entry into their territory by causing thunder and rain on sunny days, but they also prevent other people from seeing or looking at them or knowing where and how they live. For more than a hundred years, their vital attitude has consisted of refusing contact (Franco, 2012, p. XVII).

The contacted indigenous people, facing the transformations and challenges brought about by historical contact with the non-indigenous world, see in PIA a living bastion of resistance, autonomy and self-determination. In other words, they

are the testimony of societies that continue to safeguard and reproduce their own knowledge systems with the rigor and ancestral vitality necessary to preserve life and territorial management. These systems have been protected with great mistrust as a response to the homogenizing power of the mainstream society, which has precipitated great transformations and the weakening of the knowledge systems and ways of life of the contacted indigenous societies.

Under the precept that there are diverse knowledge systems established in the territory, born in different Amazonian cultural complexes, which aim to sustain the collective existence of human and non-human groups, PIA are strategic actors who, despite their decision to avoid contact, play a fundamental role in the governance and management of territory, as they guarantee its stability, life, abundance and general well-being through the management and healing of the different macro-territorial blocks comprising the Amazonian space.

# 1.3

## Justification

The current initiative of the GTI PIACI to develop such an instrument is significant on several levels. First, because it focuses on one of the key issues in the regional context of the protection of these peoples: according to data from the GTI PIACI itself (data from 2024), at present, of the 188 records of peoples in isolation in South America (Table 2) only 60 have been officially recognized by the States, with the existence of at least 128 records still pending recognition. This situation means that a majority of the peoples in isolation on the continent are denied their legal existence and therefore their rights. Secondly, the process initiated aims to strengthen existing international standards on the recognition of peoples in isolation, as well as to identify gaps in their implementation in the different national and regional contexts. Third, it contributes to generating spaces for discussion on technical aspects aimed at consolidating protocols, criteria and practices at the methodological level in the region.

Finally, contributing to argue and defend the legitimacy of “indirect” approaches to the recognition of peoples in isolation, given in some contexts, is becoming an issue of strong political significance, subject to misrepresentation and manipulation by actors opposed to the protection of PIACI. This is the case in several regions of the Peruvian Amazon, where sectors of the State itself and actors linked to extractivism have been questioning the legitimacy of the technical studies carried out, arguing that they lack “scientific” validity. The rallying of such ideas is being used to hinder the development of processes for the recognition of peoples and the creation of indigenous reserves, resulting in modifications in proposals for legislation and political changes to disarm the PIACI protection framework and singling out PIACI defenders as enemies of progress (ILPe, 2024, p. 3).

The same happens in Brazil with the attempt of the legislative branch to interfere in the territorial definition of PIs, proposing regressive bills regarding the rights of indigenous peoples. The composition of the National Congress continues to be extremely unfavorable to PIs. With the election of extreme right-wing parliamentarians, the traditional anti-indigenous benches have been strengthened, known as the “Ox” (ruralists), “Bible” (evangelical proselytizers) and “Bullet” (armament supporters) benches.

An example of the above is Bill 490 of 2007, which implies serious setbacks for the protection of indigenous rights, and which was approved by the Chamber of Deputies and the Senate, under number 2903/2023. The acceptance, by the National Congress, of this bill, which introduces, among other provisions, the Timeframe thesis, according to which PIs would only have the right of possession and usufruct over the lands in their possession at the date of the enactment of the 1988 Constitution, occurred even after this thesis was declared unconstitutional by the Federal Supreme Court. This bill also includes a provision that directly infringes on the rights of PIA by allowing forced contact to “take state action in the public interest,” paving the way for all kinds of abuses and violations. The two aforementioned



provisions were vetoed by the current president of the republic (2024), but these vetoes have a high probability of being revoked by the National Congress.<sup>18</sup>

On April 22, 2024, Judge Gilmar Mendes, of the Brazilian Supreme Court, ordered the suspension, throughout the country, of the court proceedings that discuss the constitutionality of the Timeframe Law (Law 14701 of 2023) until the Court makes a final ruling on the matter. The minister said that “the measure aims to avoid the emergence of contradictory court decisions that could cause severe damage to the parties involved (indigenous communities, federal entities or individuals)” (“STF suspends processing of all legal actions related to the Timeframe Law”, 2024).<sup>19</sup> For the Articulation of Indigenous Peoples of Brazil (APIB), one of the movement’s priorities in the coming months is to work to try to reverse the measure taken by Mendes, convincing other magistrates of the Court to reject the decision. The latest letter from the Free Land Camp demands that the judges “not be cowed” and “stand against this death decision” (Anjos, 2024; ILBr, 2024, pp. 90-91).

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<sup>18</sup> During the publication of this IRM, the Brazilian National Congress approved Law 14701 of 2023, which adopts the Timeframe thesis. See the position of the UN Special Rapporteur on Indigenous Issues on the subject in question at the following links: <https://www.ohchr.org/en/press-releases/2024/07/brazil-must-protect-indigenous-peoples-lands-territories-and-resources-says> and <https://cimi.org.br/2024/07/relator-da-onu-afirma-que-lei-14701-violou-direitos-dos-povos-indigenas-e-apela-ao-stf-por-suspensao-de-aplicacao/?swcfpc=1>.

<sup>19</sup> See more at <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=533080&ori=1>.

# 1.4

## Guiding principles for the protection of PIACI

Table 3 provides a summary of the guiding principles, cited in local reports, for the protection of PIACI in South American countries. A set of principles not included<sup>20</sup> in this table constitute the formative prerogatives of public policies to safeguard PIACI.

**Table 3.** Guiding principles for the protection of PIACI

Countries	Bolivia <sup>21</sup>		Brazil <sup>22</sup>		Colombia <sup>23</sup>		Ecuador <sup>24</sup>		Paraguay <sup>25</sup>		Peru <sup>26</sup>		Venezuela <sup>27</sup>	
	Institutions	Principles	State	NGO	State	NGO	State	NGO	State	NGO	State	NGO	State	NGO
<b>Self-determination<sup>28</sup></b>	X	X	X	X	X	X	X			X	X	X		X
<b>No contact</b>			X	X	X	X	X		X	X	X	X		X
<b>Pro homine</b>					X		X		X	X	X	X		
<b>Precaution</b>	X		X	X	X	X	X			X		X		
<b>Progressivity and non-regressivity</b>					X					X			X	
<b>Protection / Prevention</b>	X		X	X	X	X	X		X	X	X	X		X
<b>Vulnerability</b>	X	X	X	X					X	X	X	X		
<b>No harm</b>					X				X	X	X	X		
<b>International cooperation</b>			X	X					X	X		X		
<b>Territorial intangibility</b>		X	X	X	X		X			X	X	X		

Source: VAZ (2024).

<sup>20</sup> Bolivia: regeneration, favorability, cultural diversity, differential approach. Brazil: safeguarding of the territory, surveillance, resolution, complementarity and intersectorality, accountability. Colombia: *pro natura*, differential approach, concurrence and coordination, territorial interdependence, co-responsibility, participation, and Ecuador: principles of environmental sustainability, efficiency, reparation, cultural diversity, equality, respect for human dignity, [territorial] irreducibility, interculturality and interdependence.



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<sup>21</sup> Local Report Bolivia (ILBo). Law 450 of 2013. In addition to the principles of the table: regeneration, favorability, cultural diversity and differential approach.

<sup>22</sup> Local Report Brazil (ILBr); FUNAI Ordinance 1900 dated July 6, 1987, referred by FUNAI Ordinance 281 of 2000; *Portería conjunta* 4094 MS/FUNAI, dated December 20, 2018; Resolution 44 dated December 10, 2020, National Human Rights Council (CNDH). In addition to the principles of the table: surveillance, resolution, complementarity and intersectorality and accountability.

<sup>23</sup> Local Report Colombia (ILCo). Decree 1232 of 2018. Prevention and Protection of Indigenous Peoples in Isolation or in their Natural State, Section 1. General aspects, Article 2.5.2.2.1.3. In addition to the principles of the table: pro persona, *pro natura*, differential approach, coordination, concurrence and coordination, territorial interdependence, co-responsibility and participation.

<sup>24</sup> Local Report Ecuador (ILEC). Although there is no public policy in official records, the principles (these principles are mentioned in the drafts of the public policy that was submitted by President Rafael Correa in 2007 and its update in 2015) that mark the protection and monitoring of isolated peoples are rights to territory, self-determination and willingness to remain in isolation, reparation, *pro homine*, right to culture, right to prior, free and informed consultation, and precaution. There are also principles in Official Record 002 of 2018, and in Official Record 335 dated September 26, 2018. In addition to those mentioned in the table: irreducibility, dignity, interculturality and interdependence.

<sup>25</sup> Local Report Paraguay (ILPy). The Paraguayan State, not recognizing the existence of PIACI, does not have guiding principles for these peoples; however, the Inter-institutional Commission for the Protection of Indigenous Peoples in Isolation or Initial Contact of the Human Rights Network of the Executive Branch (General Directorate of Human Rights of the Ministry of Justice) approved the "Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation or Initial Contact in the Ayoreo Totobiegosode Natural and Cultural Heritage-PNCAT, located in the Department of Alto Paraguay, Paraguayan Chaco", which has guiding principles for PIACI.

<sup>26</sup> Local Report Peru (ILPe). Guiding principles for the protection of PIACI established by Ministerial Resolution 240-2015-MC. PIACI Protocol of Action of the Ministry of Culture.

<sup>27</sup> Local Report Venezuela (ILVe). Constitution of the Bolivarian Republic of Venezuela. Organic Law of Indigenous Peoples and Communities, 2009. The Venezuelan State, not recognizing the existence of PIACI, has no guiding principles for these peoples.

<sup>28</sup> It should be noted that, under international law, "self-determination" is understood as a fundamental right. However, in many cases "self-determination" is considered to have a principled nature. On the other hand, several State and NGO policy documents refer to "self-determination" as a principle.



We emphasize the following:

- \* The Bolivian State, in Articles 2 and 31, paragraphs I and II of the Political Constitution of the Plurinational State, Law 450 of 2013, Supreme Decree 4793 of 2022 and Ministerial Resolution RM-131-2022 “Protocol for the identification and registration of highly vulnerable native indigenous nations and peoples”, establishes the principles and procedures for the “Protection of Native Indigenous Nations and Peoples in a Highly Vulnerable situation”, and not specifically for PIACI. In addition to the principles provided in Table 3, the Bolivian State also adopted the following principles: Regeneration, Favorability, Cultural Diversity and Differential Approach.
- \* Bolivian civil society organizations (Center for Legal Studies and Social Research –CEJS– and Central de Comunidades Indígenas Tacana II Río Madre de Dios –CITRMD–) define their guiding principles for PIACI based on ILO Convention 169, the United Nations Declaration on the Human Rights of Indigenous Peoples, the Political Constitution of the Plurinational State, Law 450 of 2013, which is expressed in the principle of respect for self-determination, no contact and living in voluntary isolation. This is also included in chapter five of the Tacana II indigenous “Protocol for Prior Consultation” 2023.
- \* The Brazilian State, based on FUNAI Ordinance 281 of 2000, *Portería conjunta* 4094 MS/FUNAI of 2018 and Resolution 44 of the CNDH of 2020, defines the guiding principles for the protection of Isolated and Recently-Contacted Indigenous Peoples (PIIRC).<sup>29</sup> In addition to the principles contained in Table 3, they also adopt the following: Safeguarding the Territory, Surveillance, Determination, Complementarity and Intersectorality and Accountability.
- \* Brazilian civil society organizations (COIAB, CTI, EAPIL/CIMI and IM) adopt the same principles defined by the Brazilian State.
- \* The Colombian State, based on Decree 1232 of 2018, defines the guiding principles of PIACI. In addition to the principles in Table 3, they also adopt the following principles: Pro Natura, Differential Approach, Coordination, Competence and Coordination, Territorial Interdependence, Co-responsibility and Participation.
- \* Colombian civil society organizations (ACT and OPIAC) adopt the same principles defined by the Colombian State.
- \* In 2007, the President of Ecuador announced a National Policy for Peoples in Voluntary Isolation. However, it has not been formalized by administrative act and has not been published in the Official Record. This draft policy is used unofficially (including in several resolutions and

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<sup>29</sup> Nomenclature adopted by the Brazilian State.

official measures) and even adopts the same principles defined therein. Interministerial Agreement 002 of 2018 (Ministries of Environment, Hydrocarbons and Justice, Human Rights and Worship), which established the “Protocol of Conduct governing the subjects of control that develop hydrocarbon activities in areas adjacent to the Tagaeri-Taromenane Intangible Zone (ZITT) and its buffer zone”, defines, in its Article 3, eight guiding principles, notwithstanding those established in the Constitution of the Republic and international human rights instruments. In addition to the principles in Table 3, they also adopt the following: Reparation, Cultural Diversity, Equality and Respect for Human Dignity.

- \* Ecuadorian civil society organizations (Fondo Ecuatoriano Populorum Progressio –FEPP– and Land is Life –LIL–) adopt the same principles defined by the Ecuadorian State.
  
- \* The Paraguayan State does not have a specific legal framework for the protection of PIACI. No major legal regulation addresses them in particular. However, the Inter-institutional Commission for the Protection of Indigenous Peoples in a Situation of Isolation or Initial Contact of the Human Rights Network of the Executive Branch (General Directorate of Human Rights of the Ministry of Justice) approved, in 2018, the Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation or Initial Contact in the Ayoreo Totobiegosode Natural and Cultural Heritage (PNCAT). This protocol has six principles that govern behaviors for the implementation of procedures for the prevention of unwanted contacts and contingencies, all of which are shown in Table 3. But it should be noted that these principles are limited only to the Totobiegosode group of the Ayoreo people, who are within the boundaries of the PNCAT. Not only does it not cover all the Ayoreo PIA, but it also circumscribes it exclusively to those located in a very small area of its territory determined by the PNCAT. There is no recognition by the State of other situations, despite the evidence; therefore, these principles are limiting and would apply exclusively to that group and within that physical space.
  
- \* Paraguayan civil society organizations (IA, AGPA, OPIT, UNAP, EAMI) have their own judgment<sup>30</sup> (Table 3).

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<sup>30</sup> The principle of “not initiating any kind of contact attempt” and respecting the physical spaces temporarily occupied by isolated indigenous groups, not approaching them until the group withdraws, is the basis of this “own judgment”. Under this concept, the group of experts assists those who have had a close experience, among other things, not to take objects or horticultural products from the places where the isolated Ayoreo group is located; not to try to make contact or bring them things (food, clothes, utensils) thinking that it will make their lives easier; not to pursue them when they take garden products, wires, iron or any object they need to make their tools from the workers’ campsites or from the vicinity of the settled communities; not to interpret an attempted contact when they approach ranch waterholes or communities in search of water, especially in times of drought; to temporarily stop work when in front of or in the vicinity of an isolated Ayoreo orchard, a hut in use or recent footprints on forest trails (ILPy, 2024, p. 32).





- \* The Peruvian State, in Ministerial Resolution 240 of 2015-MC of the Ministry of Culture, which approved the “Protocol of action upon findings, sightings or contact with Indigenous Peoples in Isolation and for relations with Indigenous Peoples in Initial Contact”, in the General Provisions, defines six fundamental principles that should guide conduct and the implementation of procedures in the event of possible relations with PIACI. These principles are listed in Table 3. In addition, the Ministry of Health, in Ministerial Resolution 799 of 2007, which approves the technical health standard “Prevention, contingency in contact and mitigation of health risks in scenarios with the presence of isolated and recently-contacted indigenous people”, recognizes the principles of prevention and high vulnerability.
- \* Peruvian civil society organizations (Native Federation of the Madre de Dios River and Tributaries –FENAMAD–, Interethnic Association for the Development of the Peruvian Rainforest –AIDSESP–, ETC.) FOLLOW THE PRINCIPLES DEFINED BY THE STATE.
- \* The Venezuelan State does not have a specific legal framework for the protection of PIACI. However, some State institutions have made statements on the subject, such as the Ombudsman’s Office of the Bolivarian Republic of Venezuela and sectors of the Ministry of Popular Power for Health. “A State body, the Ombudsman’s Office, has managed not only to recognize their presence, but also to make proposals to bodies such as the National Constituent Assembly, trying to include in the Constitution a reference to PIA” (Vaz, 2019, p. 25). This same report notes that “some entities of the Ministry of Health not only recognize the presence of isolated or recently-contacted groups, but also have some concrete actions that go along the lines of special protection, promoting their recognition and specific health care” (ILVe, 2024, p. 5; Vaz, 2019, p. 25). In this regard, in Venezuela, although no specific policies are enacted for PIA (and PICI), in the case of principles, those defined for indigenous peoples in general are used, despite not recognizing the specificity of these peoples, such as the principle of no contact, among others. The principles defined in the legislation are found in the Constitution of the Bolivarian Republic of Venezuela, which in a broad reading are provisions applicable to PIACI. Article 119 of the Constitution recognizes the existence of indigenous peoples and communities and their rights, as well as their territories, which are inalienable, imprescriptible, unseizable and non-transferable. Article 120. The use of natural resources in indigenous habitats by the State shall be made without harming their cultural, social and economic integrity, and is also subject to prior information and consultation with the respective indigenous communities. Article 121. Indigenous peoples have the right to maintain and develop their ethnic and cultural identity, worldview, values, spirituality, and their sacred places and sites of worship. The State shall encourage the appreciation and dissemination of the cultural expressions of indigenous peoples. Article 122. Indigenous peoples

have the right to comprehensive health care that takes into account their practices and cultures. Article 123. Indigenous peoples have the right to maintain and promote their own economic practices. Article 126. Indigenous peoples, as cultures with ancestral roots, are part of the nation, of the State and of the Venezuelan people as unique, sovereign and indivisible. In the Organic Law of Indigenous Peoples and Communities, Article 5, the indigenous peoples and communities have the right to decide and assume autonomously the control of their own institutions and ways of life [...], they have the right to participate in the administration, conservation and use of the environment and natural resources existing in their habitat and lands. Article 11. Any activity that may directly or indirectly affect indigenous peoples and communities shall be consulted with the indigenous peoples and communities involved. Article 12. The execution of activities in the habitat and lands of indigenous peoples and communities that severely or irreparably affect the cultural, social, economic, environmental or any other type of integrity of said peoples or communities is prohibited. Article 23. The State recognizes and guarantees the native right of indigenous peoples and communities to their habitat and to the collective ownership of the lands they ancestrally and traditionally occupy. The Executive Branch, together with the indigenous peoples and communities, shall carry out the demarcation of their habitat and lands for their titling. Article 28. Indigenous peoples and communities have the right to the use, enjoyment, development and participation in the administration of their habitat and lands. Article 53. Indigenous peoples and communities have the right to the sustainable use and exploitation and to the administration, conservation, preservation of environment and biodiversity. Article 61. In cases of invasion, illegal occupation or disturbance of the indigenous habitat and lands by third parties, the indigenous peoples and communities shall exercise the actions set forth in the applicable laws, for the purpose of recovering their lands and immediately ceasing any disturbance. Article 86. The State recognizes and guarantees the right of each indigenous people and community to exercise their own culture, freely expressing, practicing and developing their ways of life and cultural expressions, strengthening their own identity, promoting the linguistic vitality of their language, preserving their own vision of the world, professing their religions, beliefs and cults, as well as conserving and protecting their sacred places and sites of worship. Article 113. Health services are organized, planned and controlled with the direct participation of indigenous peoples and communities and their organizations. Comprehensive health care will be adapted to the geographic, economic, social and cultural conditions, and to the uses and customs of these peoples and communities. In the Law of Demarcation and Guarantee of the Habitat and Lands of Indigenous Peoples, Article 4, the process of demarcation of the habitat and lands of indigenous peoples and communities will be carried out by the National Executive, through the Ministry of Environment and Natural Resources, together



with legally established indigenous peoples, communities and organizations. Article 8. In order to guarantee the native rights of indigenous peoples and communities over their habitat and lands, the National Demarcation Process will be carried out taking into account the consultation and direct participation of indigenous peoples and communities, as well as their ecological, geographic, toponymic, populational, social, cultural, religious, political and historical realities.

- \* Venezuelan civil society organizations (Wataniba, ORPIA, OIPUS, Horonami) define their guiding principles for the protection of PIA: self-determination, no contact and protection.

Among the guiding principles for the protection of PIACI, of the seven countries described, the principle of no contact is what specifically characterizes the situation of isolation; it is the articulating axis around which the rights of peoples in isolation stem and the actions and practice of their protection are arranged, including their identification and methodologies for the recognition of their existence. This principle responds to the wishes of PIA, expressed through attitudes and expressions of rejection of relationships with people outside their group. These signs are characterized by attitudes left by isolated people in the forest, such as shamanic, clan or other marks that warn others of their presence, weapons thrown against machinery in attacks defending their crops (Ayoreo, Paraguay), traps such as sharp thistles camouflaged in roads to pierce the feet of passers-by (isolated people of the Massaco Indigenous Land, Brazil), tree branches intercepting roads (Mascho Piro, Peru), shouting or throwing objects to scare intruders away from their territories (Ayoreo PIA, Paraguay), attacks on people entering their territory (isolated people from the Uru-Eu-Wau-Wau Indigenous Land, Brazil), arrows, spears or broken bows grouped at the edge of the river, crossed on a path or trail blocking its transit, pinned to a tree, inside the body of an animal or camouflaged, etc.

Over the past fifty-five years, PIA (Yuri and Passé) have had sporadic encounters with hunters, cocaine traffickers, missionaries, guerrillas, loggers, among others. They have avoided permanent contact with any of them by using different strategies, such as migrating to increasingly inaccessible places, setting death traps on the roads, scaring those who manage to enter their territory, abandoning their malocas when strangers arrive and, in some cases, confronting them with their thought or spiritual force, hand in hand with wind, lightning and rain (Franco 2012).

Although, in some situations, isolated individuals or groups may be observed at certain times of the year (sightings), mainly along riverbanks, these situations do not characterize an attempted contact. These are periodic seasonal movements that are part of their territorial management, ritual practices or because they are in search of food or any objects required. We should interpret the approach to artificial ranch waterholes, or their hull in search of water in times of extreme drought by the groups of the Ayoreo PIA similarly.

# 1.5

## Guiding principles for the recognition of PIA

The principles shown below are total or partial reproductions, or even inspired by the principles already mentioned in local reports, contained in the legal frameworks of the States or those defined by civil society organizations in their methodologies. As a result of the IRM, we recommend the following:

### 1.5.1 *Principle of self-determination*<sup>31</sup>

The self-determination of PIA is a fundamental right that must be respected and protected. In this regard, appropriate action strategies will be implemented to guarantee their physical integrity and protect the areas inhabited by these peoples, respecting the principle of preserving their characteristic ways of life. This right derives from the self-determination of these peoples, which in many cases has been affected by external aggressions. To ensure this, it is crucial to respect their territory, their culture, their ways of life and development, their heritage and their decision to be isolated. The heritage of these peoples includes all expressions of their relationship with the land (tangible and intangible), with other living beings and spirits, and is the basis of their social, economic and diplomatic interactions with other peoples with whom they share the territory. In order to maintain the principle of self-determination, the following points must be taken into account:

1. It is important to understand that all aspects of an indigenous people's heritage are interconnected and cannot be separated from their traditional territory. Therefore, each indigenous people must have the autonomy to decide which tangible and intangible elements are part of their heritage. Respecting and protecting the self-determination of PIA is essential to ensure their long-term survival, cultural identity and well-being.
2. Respect for the principle of self-determination, at the State level, is ensured through a system of technical, methodological and regulatory protection, with sufficient human resources of sufficient quantity and quality, and adequate infrastructure and budget for the implementation of public policies.
3. Pursuant to the provisions of the IACHR, in Report 152 of 2019 (Case 12979/ Tagaeri and Taromenane):

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<sup>31</sup> Self-determination occurs in the context of a constitutional framework that delimits it. It should not be understood as a right that authorizes the creation of zones exempt from legal regulation by the State, or as a territory of legal control. Self-determination also cannot be confused "with autarkic, separatist or anti-systemic positions, since they must be considered together with the principle of unity of government and territorial integrity of the State" (OHCHR, 2012, par. 52, p. 27).



89. [...] The Commission considers that the instruments for the protection of rights must be understood through two interrelated and mutually determining principles, which are specifically applicable to indigenous peoples in voluntary isolation: the principle of Self-Determination and the principle of no contact. For the IACHR, the principle of no contact is the embodiment of the right of PIAV to self-determination. The principle of Self-Determination and the rights it entails are recognized in the American Declaration on the Rights of Indigenous Peoples (hereinafter “the American Declaration PPII”) thereby enabling, adapting and updating the rights recognized in the Inter-American instruments to the reality of indigenous peoples in isolation. Specifically, regarding PIAV, Article XXVI of the American Declaration PPII recognizes the principle of no contact, as will be detailed below.

90. [...] The Inter-American Court, invoking the Committee on Economic, Social and Cultural Rights, has referred to the applicability of the principle of self-determination of peoples to indigenous peoples, under the following terms:

[...] The Committee on Economic, Social and Cultural Rights, which is the body of independent experts that monitors the implementation of the International Covenant on Economic, Social and Cultural Rights - IC-ESCR by State Parties, has interpreted Article 1 under such covenants as applicable to indigenous peoples. In this regard, by virtue of the right to self-determination of indigenous peoples under Article 1, the peoples may “provide for their economic, social and cultural development” and may “freely dispose of their natural wealth and resources” so that they are not deprived of “their own means of subsistence.

91. By virtue of the foregoing, the self-determination of peoples, in its application to indigenous realities, contains an element relating to the establishment and free enjoyment, without pressure or interference, of their political organization and the development of their economy, society, and culture. The Commission also notes that, unlike the principle of self-determination in situations of colonialism or foreign domination, the application of this principle with respect to indigenous peoples cannot be interpreted as implying the possibility of undermining the territorial integrity of the State in which such peoples live or as conferring any right to independence. However, this should not be understood as an exclusion of the territorial rights of indigenous peoples, since, as the Commission has recognized, in the case of PIAV and initial contact, “the right to self-determination has a direct and profound relationship with the rights to their lands, territories and natural resources”. In this regard, the Commission finds that the principle and right to self-determination, in the case of PIAV, is particularly relevant in terms of respect for their traditional way of existence outside the majority society, or even their right to become isolated again, if contact or assimilation had been initiated at some point over time.

## 1.5.2 *Principle of no contact*

It should be up to PIA to decide freely and voluntarily whether or not to establish contact with the surrounding society. By virtue of this principle, prevention, contingency and impact mitigation measures and plans shall be established in the event of undesired contact that could affect these peoples. Strategies should include health protection.

1. Therefore, actions or measures contradicting this clear expression must be interpreted as violations of fundamental rights.
2. The principle of no contact derives from self-determination, providing that contact should only take place through the initiatives of the peoples in isolation themselves, and that any measure of forced or controlled promotion of contact should be avoided.
3. In extreme cases, when the need is duly proven, through evaluative and conclusive processes of the competent bodies and “social control”,<sup>32</sup> interventions can be carried out by the official body in charge of guaranteeing the physical integrity of these peoples.

## 1.5.3 *Principle of precaution*

The principle of precaution refers to making public decisions in a timely and appropriate manner, in situations where the information available is insufficient, incomplete or confusing, and in situations where they must be made despite difficulties or complexities.

The principle of precaution as the guiding principle of environmental policy safeguards peoples in isolation. Precaution requires taking preventive measures in the event of uncertainty or doubts about actions, policies or activities that may directly or indirectly affect the life and physical, cultural, spiritual and territorial integrity of peoples in isolation; uncertainty and doubts about the conditions of isolation require preventive measures, precautionary actions, respectful decisions and regulations protecting their rights. The following should also be noted:

1. Actions and measures that may negatively affect, even indirectly, their territories, well-being and life options, should be considered as non-consensual by these peoples, as they may disrupt the fundamental conditions for their physical integrity, the maintenance of their uses, customs and traditions, as well as contradict the principle of no contact.
2. The development and comprehensive implementation of management instruments, the guarantee of specialized and trained teams and sufficient financial resources are basic factors for prevention and precaution against risk and vulnerability contexts.

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<sup>32</sup> Social control is the participation of civil society in public management through bodies created for such purpose, with the aim of monitoring and inspecting government actions and thus solving problems and ensuring the maintenance of citizen services.



3. It is essential to promote dialogue and awareness-raising processes among indigenous and non-indigenous populations living in the vicinity of isolated peoples, and to monitor their health and well-being.
4. Taking into account that indigenous peoples in isolation do not share the limits administratively imposed by the State on indigenous lands, the buffer zones<sup>33</sup> should be implemented in their surroundings, under technical and anthropological criteria, guaranteeing the legitimate action of the official indigenous governing bodies in these areas as well.
5. Likewise, indigenous peoples in isolation do not share the borders established between nation-States, and it is urgent and necessary, especially in the diplomatic sphere, to create spaces for dialogue in which multi-lateral actions and agreements can be implemented for the protection of these peoples in cross-border regions (see section 1.5.8 Principle of international cooperation).
6. The conditions for access, stay and movement in regions with evidence of the presence of indigenous peoples in isolation must be guaranteed, so that the teams are fully capable of carrying out all the work necessary to recognize their existence, including, if necessary, legal actions for their compliance.
7. Agile and provisional administrative instruments must be guaranteed for the interdiction of areas where there is the possibility of the presence of isolated peoples, restricting the use and access of third parties, environmentally safeguarding the territory, as well as the necessary research processes for the recognition, identification and territorial definition of these peoples.<sup>34</sup>
8. The exercise of public policy must be continuous, stable and permanent, in order to generate the minimum impact on these peoples.

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<sup>33</sup> Buffer lands are those surrounding those of PIACI. In order to avoid accidental contacts, specific protection measures must be established, such as limited access to such areas, mechanisms and physical barriers for economic activities and control over the processes carried out within them (OHCHR, 2012, par. 55-b).

<sup>34</sup> The Brazilian State, through FUNAI, based on the principle of precaution, uses a provisional legal mechanism for the protection of certain areas with a recognized presence of PIA, while the process of territorial identification or demarcation is being developed. This instrument, known as a "restriction of use", is provided for in Decree 1775 of 1996, and establishes in Article 7, as to the administrative procedure for the demarcation of indigenous lands in general: "to discipline the entry and transit of third parties in areas where the presence of isolated indigenous peoples is recognized, as well as to take the necessary measures for the protection of indigenous peoples". The "restriction of use" is aimed at the process of recognition and identification of the presence of isolated peoples and the unfolding for the recognition of territorial rights: the conclusive demarcation of indigenous land.

### 1.5.4 *Vulnerability principle*

The performance or development of any activity is carried out considering that the rights of PIA are exposed to multiple situations of vulnerability (social, cultural, territorial and immunological) when faced with any contact. The behaviors and procedures to be implemented against contingencies must always consider this situation of vulnerability, given the greater susceptibility to illness and death.

### 1.5.5 *Pro homine principle*

In the application of public policies for the protection of PIA, in case of discrepancy between domestic and international standards, the enforcement authorities shall ensure that the standards that provide them with the highest degree of protection are applied.

### 1.5.6 *No harm principle*

Principle applicable to the health of indigenous peoples in isolation and initial contact; it entails both the guarantee of the right to life and the establishment of measures to ensure the highest possible level of health.

Based on this principle, we should have clear guidelines that have a direct impact on the health of these peoples:

1. Recover the territoriality of these peoples and guarantee their territories.
2. Promote and treat the health of isolated and initial contact groups, taking into consideration each culture in a particularized and contextualized manner, as well as the special conditions of high vulnerability to which they are subjected.
3. In the case of PIA, the guarantee of the right to health must be interpreted taking into account the desire of these peoples to remain in isolation and the need for greater protection of these peoples given their vulnerable situation.
4. Consider environmental conservation as an essential factor to promote the health of these groups. Consider a preserved and balanced environment that provides a valuable and priceless health maintenance service.
5. Carry out active and permanent programs to promote the health of the surrounding communities with inter-institutional articulation, in order to control epidemiological, social, environmental and economic factors that may cause physical and mental damage. In this regard, it is important to work from the creation of "sanitary protection cordons" to guarantee the health of PIA and Indigenous Peoples in Initial Contact (PICI) and their surrounding communities, so that they do not suffer the consequences of possible epidemics and diseases of peoples around them.
6. Define specific public health policies for isolated and initial contact groups.
7. Consider that the way of life, traditional diet and environmental conservation are fundamental for the maintenance of the health of these groups.



8. Each State must create specific and qualified teams to work with the health of these groups, including taking care of the health of the team of professionals, such as prior vaccination and a minimum understanding of the anthropology of health.
9. Promotion of systematic preventive actions. Each State must create an emergency (contingency) plan in the event of a contact, accidental or not, with severe impacts on the health of these peoples, with imminent threat of mass mortality (in exceptional situations: agility needs). To this end, also create rapid mechanisms for more immediate and efficient action, including the availability of resources.
10. It is important that all health care is always provided by specialized personnel, both in health and indigenous issues, who can establish a culturally appropriate relationship. Only a staff with expertise in PICI health and in establishing intercultural relations with indigenous peoples can guarantee the health of their members while ensuring respect for the other rights to which PICI are entitled. This staff requires specific and demanding training in various issues related to interculturality, traditional medicine and the cultural practices of the peoples with whom they will be working.
11. The right to health of PIA is guaranteed by adopting measures related to their situation of special vulnerability (i.e. diseases that could threaten their existence) and respecting international treaties that recognize traditional indigenous health systems and the use of their ancestral medicines. Even so, it is important to develop preventive health programs that serve as health protection plans. In this regard, the levels of contamination of rivers and toxic spills flowing into them must be controlled, as well as poaching and fishing that may take place in the territories of peoples in isolation, since food sovereignty is one of the keys to maintaining health and self-determination. Likewise, care and follow-up should be given to the health of all actors living near the territories of indigenous peoples in isolation, whether they are settlers, missionaries, company workers, members of the security forces or the army, etc.

### 1.5.7 *Principle of intangibility and territorial integrity*

It is essential to guarantee the intangibility, indissolubility, irreducibility, continuity and integrity of the PIA territories, made possible, to a large extent, by territorial definition, full possession, exclusive usufruct, protection and environmental and territorial management.

Any activity that violates or may violate the rights of these groups, particularly those related to their life, health, personal and cultural integrity, self-determination and non-contact, shall be prohibited in the territories of PIACI. The maximum protection of the territory, in order to avoid any action that could alter or modify the characteristics of the land where they live. The subjects of control shall carry out their activities in strict compliance with the parameters established by the



competent authority and, under no circumstances, may they intervene in these territories or intangible zones.

We emphasize what has already been pointed out in the principle of precaution: taking into account that indigenous peoples in isolation do not share the limits administratively imposed by the State on indigenous lands, the buffer zones should be implemented in their surroundings, under technical and anthropological criteria, guaranteeing the legitimate action of the official indigenous governing bodies in these areas as well.

The standard established by the IACHR in report 152/19/Case 12979/19-Ta-gaeri and Taromenane stands out:

103. By virtue of the foregoing, taking into consideration the principle of self-determination and the principle of no contact, as well as the trend in the American States towards the consolidation of the intangibility of the territory of PIAV in their national regulations, and considering the opinions of the Rapporteur of the IACHR and the United Nations Special Rapporteur on the rights of indigenous peoples, and the Guidelines of the Office of the High Commissioner for Human Rights, the Commission finds that the most effective way to protect the territorial rights of PIAV, and thus their integrity and subsistence, is through intangibility. Intangibility with respect to third parties, including companies, and economic activities, particularly exploitation and extraction, is evident as the most appropriate legal tool for the fulfillment of the duties of respect and guarantee of PIAV, so any regulation failing to observe it requires the State to provide sufficient justification to allow, in an exceptional manner, for the need to intervene.

104. The Commission considers that intangibility should not be limited to its formal regulation, but should allow for a real protection of PIAV territories. In this regard, in exceptional cases, restrictions on intangibility should be based primarily on the protection and subsistence of PIAV. The Commission does not consider that it is compatible with the principles of self-determination and no contact to restrict the ownership of PIAV for economic interests related mainly to the exploitation of natural resources. In this regard, States are responsible for demonstrating that any intervention or activity that generates impacts on a PIAV territory is aimed at its protection and subsistence, or based on truly exceptional reasons that seek to protect essential legal assets, such as life, personal integrity or health.



## 1.5.8 *Principle of international cooperation*

The protection of territories occupied by PIA must be linked to multilateral cooperation between countries and inter-institutional cooperation between public and private entities, allowing for methodological and regulatory exchanges, multilateral agreements and technical cooperation.

Given that PIA do not share the borders established between nation-States, and their territory of origin crosses international borders, it is urgent and necessary, especially in the diplomatic sphere, to establish spaces for dialogue capable of thinking and implementing multilateral actions and agreements, according to their capacities and strengths, in line with the respective legal frameworks, always respecting the principles of no contact in cross-border regions.

In the case of PIACI, the notion of territory is usually based on natural boundaries, such as rivers or mountains, and not on political boundaries between States or their subdivisions. Therefore, the IACHR has recognized that certain measures for the protection of these peoples have transnational implications (IACHR and OAS, 2019). In these scenarios, there is an urgent need for coordinated cooperation between States on a binational or regional basis, as appropriate, to achieve greater and more effective respect for the rights of these groups in the hemisphere (IACHR and OAS, 2013, recommendation 22). Along the same lines, Victoria Tauli Corpuz, UN Special Rapporteur on the Rights of Indigenous Peoples, argued that interstate coordination is necessary to address the threats faced by these indigenous peoples across borders (IACHR and OAS, 2017).

## 1.5.9 *Principle of progressivity and non-regressivity*

It is the duty of States to respect and guarantee human rights, and therefore, in accordance with the principle of progressivity, States must strive for the gradual progress of human rights in order to achieve their full compliance, i.e., in order to comply with certain rights, measures must be taken in the short, medium and long term, but proceeding as expeditiously and effectively as possible.

## 1.5.10 *Principle of cooperation and participation*

Cooperation, collaboration and coordination between public administrations and the different agents involved at local, regional, national and international levels.

The different administrations or bodies and departments belonging to different spheres of the same administration, involved in the protection of PIA, shall be governed by the organizational principles of cooperation and coordination for maximum unity and efficiency in their actions. The entities involved in the implementation of PIA protection policies must be willing to collaborate among themselves and with public administrations and other agents involved to ensure the successful application of this principle. The following should also be noted:

1. The protection and promotion of the rights of PIA should be an inter-institutional responsibility, which means that, in addition to the official

- indigenous agencies, spaces for permanent dialogue should be promoted among other public entities and other agents involved.
2. The State must recognize and promote the participation of indigenous peoples, their organizations and civil society in decisions and activities involving the protection and promotion of the rights of PIA, ensuring the proper exercise of social control institutions.
  3. Given that PIA do not share the borders established between nation-States, and their territory of origin crosses international borders, it is necessary to establish collaboration, coordination and multilateral cooperation agreements between countries and inter-institutional cooperation between public and private entities, allowing for the establishment of spaces for dialogue capable of thinking and implementing multilateral actions and agreements, according to their capacities and strengths, in line with the respective legal frameworks, always respecting the principles of no contact in cross-border regions.

### 1.5.11 *Principle of accountability*<sup>35</sup>

Violations of the rights of PIA, such as attempts at forced contact, the invasion of indigenous lands with their presence, the destruction and environmental degradation of their territories, the State's failure to guarantee conditions to safeguard their rights, among others, must be investigated and criminally sanctioned within a reasonable period of time. The following should be taken into account:

1. Aggressions by third parties against PIACI should be criminally prosecuted, but in the case of neighboring indigenous communities, some of them in recent contact, agencies have recommended intercultural intervention.
2. It is essential to promote and develop studies and research on the severe violations of rights suffered by PIA, especially with regard to their nature as crimes against humanity and genocide.
3. Keep in mind the standards established in the Inter-American Human Rights System, such as, for example:
  - > [States should] establish effective protection mechanisms with the necessary material resources to prevent, in practice, access by third parties to territories where indigenous peoples in isolation or initial contact are present, including their buffer zones, and provide for appropriate sanctions for those who violate them, and if applicable, that such sanctions are culturally appropriate. In relation to the previous recommendation,

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<sup>35</sup> The Peruvian State, in Legislative Decree 1237 of 2015, which amends the Criminal Code, incorporates as an aggravating circumstance for the crimes regulated in the Code if the victim belongs to a PIACI (Article 46, 2, n). In addition, it adds as crimes the trafficking and illegal extraction of species of wild flora and fauna and the predation of wild flora and fauna; it also regulates as aggravating circumstances crimes against forests and the crime of illegal trafficking of timber forest products if they are committed within territorial or indigenous reserves.

take into account the local context, being sensitive to relations with neighboring indigenous peoples or communities, including those in initial contact (IACHR and OAS, 2013, recommendations 7 and 8).

- > Carry out the necessary measures to implement or strengthen the systems for monitoring and oversight of extractive activities, exploitation or development actions relevant to the Pan-Amazon region, in a manner consistent with the human rights obligations outlined in this report (IACHR and OAS, 2019, recommendation 5).
- > Refrain from committing aggressions and harassment against leaders or other persons involved in the processes of defense of the rights of communities, population or indigenous and tribal peoples in the Pan-Amazon region, and if necessary, prevent them from happening. In particular, upon learning of an actual and immediate risk, adopt reasonable measures to prevent its materialization; earnestly investigate the facts that are brought to their attention; as well as, if appropriate, punish those responsible and provide adequate reparation to the victims, regardless of whether or not the acts are committed by state agents or private parties (IACHR and OAS, 2019, recommendation 7).



# 1.6

## Guiding principles in each country, in detail

The following is an overview by country of the guiding principles of the PIACI protection policy that are present in their legal frameworks. In countries that do not have such specific policies for PIACI, the principles contained in constitutions, complementary laws or even regulatory laws or laws related to indigenous rights in general, were adopted when applied.

### **Bolivia**

Law 450 of 2013. Law for the Protection of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation. Article 3 (Principles). The principles governing the application of this law are:

1. Precaution. Aimed at the development of specific, preventive and precautionary policies to guarantee at all times the life systems of native indigenous nations and peoples in a highly vulnerable situation, whose physical and cultural survival is extremely threatened.
2. Protection. Aimed at the adoption of a specific framework of special protection, at all levels of the Plurinational State, to safeguard the life systems of native indigenous nations and peoples in a highly vulnerable situation, whose physical and cultural survival is extremely threatened.
3. Regeneration. Designed as the State's guarantee for the reproduction of the life systems of native indigenous nations and peoples in a highly vulnerable situation, whose physical and cultural survival is extremely threatened.
4. Self-determination. By virtue of which, native indigenous nations and peoples in a highly vulnerable situation, whose physical and cultural survival is extremely threatened, freely determine their political status and pursue their economic, social and cultural development, within the framework of the Plurinational State. Self-determination should be interpreted in a differentiated manner.
5. Favorability. Understood as the preferred application of the most favorable rule to condition and direct any state action to be carried out in a specific manner with native indigenous nations and peoples in a highly vulnerable situation, whose physical and cultural survival is extremely threatened.
6. Cultural diversity. Cultural diversity constitutes the essential basis of the Plurinational State. It is based on the recognition and respect for the different systems of life of native indigenous nations and peoples, and

expresses the historical identity of their culture, which maintains it and projects it for future generations.

7. Differential approach. Understood as the application of policies to address the needs and situations of high vulnerability of indigenous nations and peoples or segments thereof.

## **Brazil**

*Portería conjunta* 4094 dated December 20, 2018. Defines principles, guidelines and strategies for the health care of Isolated and Recently-Contacted Indigenous Peoples.

### Chapter III

#### The principles

Article 3. Health care for Isolated and Recently-Contacted Indigenous Peoples shall observe the following principles:

- \* Right to self-determination and respect for their uses, customs and traditions.
- \* Safeguarding the territory and access to traditionally used natural resources as a fundamental factor in maintaining and promoting the quality of life and well-being of the population.
- \* Recognition of their social and epidemiological vulnerability to increased susceptibility to disease and death.
- \* Precaution in the adoption or suspension of actions and decisions that may pose potential risks to the life or safety of the person or the population.
- \* Monitoring of interventions and behaviors that affect or hinder the performance of traditional socio-cultural practices, including those related to food, housing and rituals, and behaviors potentially harmful to health, such as over-medication and unnecessary clinical procedures.
- \* Determination of health actions at the local level, within the indigenous territory to avoid, as far as possible, transfers for health treatment in urban centers.
- \* Complementarity and intersectorality in health care initiatives among the agencies and institutions responsible for promoting care for the indigenous population.

Resolution 44 dated December 10, 2020. National Human Rights Commission (CNDH).

Article 4. The following principles and guidelines should guide the indigenous policy aimed at isolated indigenous peoples:

1. Self-determination:
  - a. The situation of isolation should be considered the maximum expression of their life and welfare options, and any and all changes in living conditions should be freely decided by these peoples,



including the forms of interaction with the surrounding society. Therefore, actions or measures contradicting this clear expression must be interpreted as violations of fundamental rights.

- b.** In extreme cases, when the need is duly proven, through a process of social control, interventions may be carried out by the official indigenous organization to guarantee the physical integrity of these peoples.
  - c.** The guideline of non-discrimination derives from self-determination, providing that contact should only take place through the initiative of the peoples in isolation themselves, and that any measure of forced or controlled promotion of contact should be avoided.
  - d.** It is essential to guarantee the intangibility, indissolubility and integrity of their territories, made possible, to a large extent, by demarcation, full possession, exclusive usufruct, protection and environmental and territorial management.
  - e.** Respect for the principle of self-determination, at the State level, is ensured through a system of technical, methodological and regulatory protection, with sufficient human resources of sufficient quantity and quality, and adequate infrastructure and budget for the implementation of public policies.
- 2.** Precaution and prevention:
- a.** Actions and measures that may negatively affect, even indirectly, their territories, wellbeing and life options, should be considered as non-consensual by these peoples, as they may disrupt the fundamental conditions for their physical integrity, the maintenance of their uses, customs and traditions, as well as contradict the guideline of no contact.
  - b.** The development and comprehensive implementation of management instruments, the guarantee of specialized and trained teams and sufficient financial resources are basic factors for prevention and precaution against risk and vulnerability contexts.
  - c.** It is essential to promote dialogue and awareness-raising processes among indigenous and non-indigenous populations living in the vicinity of isolated peoples, and to monitor their health and well-being.
  - d.** Taking into account that isolated indigenous peoples do not share the limits administratively imposed by the State on indigenous lands, the buffer zones should be implemented in their surroundings, under technical and anthropological criteria, guaranteeing the legitimate action of the official indigenous bodies in these areas as well.
  - e.** Likewise, isolated indigenous peoples do not share the borders established between nation-States, and it is urgent and necessary, especially in the diplomatic sphere, to establish spaces for dialogue capable of thinking about and implementing multilateral actions and agreements for the protection of these peoples in cross-border regions.





Sacred Indigenous Law or Indigenous Law, the jurisprudence that recognizes, guarantees and develops the differentiated rights of indigenous peoples, such as pro-persona, pro-natura, prevention, differential approach, progressivity and non-regressivity, no harm, coordination, concurrence and coordination and, in particular, the following:

1. Self-determination and no contact. Consists of the free and voluntary decision of indigenous peoples to remain in isolation and without contact with the rest of society. In accordance with this principle, PIA have the right to maintain this way of life for as long as they so determine.
2. Territorial intangibility for PIA: the prohibition of any direct or indirect intervention in the territories where PIA are settled, understood as the physical spaces on which the communities sustain their existence, except as specifically contemplated in this chapter.
3. Precaution. When there are strong indications of the existence of PIA, even without confirmation, the regulatory measures of prevention and protection for the defense of the collective and individual rights of these peoples must be applied.
4. Territorial interdependence. In order to fully guarantee the rights to physical existence, spiritual, cultural and territorial integrity of PIA, the relationship of the territories of PIA with the territories of other indigenous peoples in the same geographical area is recognized, such that the scope of the protection measures has effects beyond the defined intangible areas.
5. Co-responsibility. The guarantee of the rights of PIA is the responsibility of all public entities at the national and territorial levels, including indigenous peoples and their authorities in neighboring territories, as well as individuals who perform public functions or provide public services. This principle is complementary to the correlation of duties and rights of every person.
6. Participation. In the instances created by this chapter, the participation of the legally established indigenous authorities and the traditional authorities of the directly neighboring indigenous peoples shall be guaranteed. The different State entities committed to the development, implementation and follow-up of the measures and mechanisms provided for in this chapter shall work harmoniously and respectfully with the indigenous authorities.

The above principles are illustrative and not exhaustive.

## **Ecuador**

Constitution of the Republic of Ecuador.

Article 57, second paragraph. The territories of peoples in voluntary isolation are an irreducible and intangible ancestral possession, therefore any type of extractive activity shall be forbidden in them. The State shall adopt measures to guarantee their lives, ensure respect for their self-determination and their



willingness to remain in isolation, and ensure the observance of their rights. The violation of these rights shall constitute the crime of ethnocide, which shall be punishable by law.

Article 313. The State reserves the right to administer, regulate, control and manage strategic sectors pursuant to the principles of environmental sustainability, precaution, prevention and efficiency.

Although there is no public policy, the principles (these principles are mentioned in the drafts of the “National Policy for Peoples in Voluntary Isolation” that was submitted by President Rafael Correa in 2007 and its update in 2015; however, not published in the Official Record) that mark the protection and monitoring of Isolated Peoples in Ecuador are:

[...]

Part two

National policy for peoples in voluntary isolation

Vision<sup>36</sup>

The Ecuadorian State has created the conditions to ensure the physical survival and preservation of the culture of peoples in voluntary isolation. The Tagaeri and Taromenani peoples, and other peoples in voluntary isolation, are part of the history and cultural identity of the country; their existence is a collective heritage; their well-being and development in accordance with their own cultural patterns contributes to the construction of a more equitable and just country.

Principles

The principles that guide the actions of the Ecuadorian State and its citizens with respect to peoples in voluntary isolation are as follows:

**1. Intangibility**

The protection of lands and territories in favor of indigenous peoples in isolation shall be guaranteed, which entails the State’s commitment to avoiding any activity that may endanger their survival. For such purpose, all legal and political instruments available to the Government will be used.

**2. Self-determination**

The right to self-determination of indigenous peoples in isolation must be recognized. In this regard, the action strategies will be adequate to guarantee the physical integrity and protection of the areas inhabited by these peoples under the principle of maintaining the ways of life characterizing them. To this end, the aggressive implementation of assistance models that undermine their self-determination will be avoided.

Isolation must be understood as the result of the right to self-determination of these peoples which, in most cases, is the consequence of aggressions suffered. For such purposes, their own territory, culture, life and development models and heritage shall be respected. “Heritage”

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<sup>36</sup> See “Política nacional de los pueblos en situación de aislamiento voluntario”, [https://polificcion.wordpress.com/wp-content/uploads/2013/09/politica\\_nacional\\_pav\\_versin-finalp2.pdf](https://polificcion.wordpress.com/wp-content/uploads/2013/09/politica_nacional_pav_versin-finalp2.pdf), specifically page 8.

includes all expressions of the relationship between the people, their land and other living beings and spirits sharing that land, and is the basis for maintaining social, economic and diplomatic relations with other peoples, with whom it is shared. All aspects of heritage are interrelated and cannot be separated from the traditional territory inhabited by a given people. Each indigenous people must decide for itself the tangible and intangible aspects comprising its heritage.

### 3. Reparation

In order to provide sufficient, effective and prompt reparation, this principle will be applied under the terms established by the United Nations, in two points relating to:

- > Redress that seeks to restore the victim's previous situation, i.e. the full exercise of his or her rights.
- > Satisfaction and guarantees of non-repetition which implies: termination of violations, verification of the facts and public knowledge of the truth, restoration of the dignity, reputation and rights of the victim, public acknowledgement of the facts and accountability, legal or administrative sanctions upon those responsible and the taking of measures aimed at the prevention of new violations.
- > This principle will be applied to enable communities to re-build their social fabric and the ecological conditions of their territories, based on an ecological assessment of the impacts of environmental damage and an understanding of the interdependent relationships between peoples and their lands. Respect for diversities must also be taken into account in the application of this principle.

### 4. *Pro homine*

In the application of these public policies, in case of discrepancy between domestic and international standards, the enforcement authorities shall ensure that the standards that provide the highest degree of protection to peoples in voluntary isolation are applied.

### 5. No contact

It should be up to indigenous peoples in isolation to decide freely and voluntarily whether or not to establish contact with society. Under this principle, prevention, contingency and impact mitigation measures and plans shall be established in the event of undesired contact that could affect these peoples. Strategies should include health protection.

### 6. Cultural diversity

The principle of cultural diversity is the essence and identity of a State. This diversity is reflected in the different forms of social, economic and political organization, as well as in the different cultural expressions. Diversity is built in different historical moments and is nourished by the different interculturality processes that countries undergo.

The principle of cultural diversity is based on the recognition of the right of all peoples to be different and is a source of identity, since it



expresses the historical identity of a culture, while maintaining and projecting it for future generations.

The application of the principle of cultural diversity requires the development of a multicultural legal framework that reflects the diversity of peoples in voluntary isolation; that guarantees in a preferential manner the protection of their rights achieved under conditions of historical injustice and inequality; and that creates the conditions for equity and social justice.

This principle requires the definition and application of policies in accordance with appropriate cultural patterns. The culture of peoples in voluntary isolation is the essence of their existence, it is the inalienable component of their history; together with the territory, it is an integral part of their identity.

**7. Precaution**

The principle of precaution refers to making public decisions in a timely and appropriate manner, in situations where the information available is insufficient, incomplete or confusing, and in situations where they must be made despite difficulties or complexities.

**8. The principle of precaution as the guiding principle of environmental policy safeguards peoples in voluntary isolation. Precaution requires taking preventive measures in case of uncertainties or doubts about actions, policies or activities that may affect the life and physical, cultural and territorial integrity of peoples in voluntary isolation.**

The principle of precaution corresponds to the situation in which the Tagaeri and Taromenani peoples live; the uncertainty and doubts about their condition of voluntary isolation require preventive measures, precautionary actions, respectful decisions and rules protecting their rights.

**9. Equality**

Peoples in voluntary isolation should enjoy equal rights, under the same conditions as any other people, especially when their historical invisibilization disrupts the daily life of their social relations. If socioeconomic differences within democratic societies can be addressed through social and economic policies, ethnic differences must be respected within a framework of ethnic, cultural and legal pluralism.

These peoples, whose rights have been violated and who are defenseless against the advance of a pseudo-civilizing and greedy barbarism, rather than equal treatment, require a scheme of effective equality and special protective treatment.

This principle makes it possible to establish the socioeconomic conditions for indigenous peoples to exercise the principle of equality, enhancing their specificities.

**10. Respect for human dignity**

Every human being is an end by itself and can never be considered simply as a means. This means that the physical or cultural extermination of peoples in voluntary isolation can never be admitted as a means to obtain the resources needed in the development processes for the benefit of other Ecuadorians.

Interministerial Agreement 002 of 2018, Official Record 335 dated September 26, 2018. Protocol of conduct that governs the subjects of control that develop hydrocarbon activities in areas adjacent to the ZITT and its Buffer Zone (ZA) (Ministries of Environment, Hydrocarbons and Justice, Human Rights and Worship).

## Chapter I

### General provisions

Article 3. Principles. The guiding principles of this protocol of conduct are, notwithstanding those established in the Constitution of the Republic and international human rights instruments:

- a. *Pro homine*: in case of regulatory conflicts or collisions, the enforcement authorities shall apply the rules that provide the highest degree of protection to PIAV and their rights.
- b. Intangibility and irreducibility: the ZITT and the other lands and territories of PIAV are irreducible and intangible, therefore, any activity within them that violates or may violate the rights of these groups, particularly those related to their life, health, personal and cultural integrity, self-determination and no contact, is forbidden. The subjects of control shall carry out their activities in strict compliance with the parameters established by the competent authority and, under no circumstances, may they intervene in the ZITT.
- c. Self-determination: PIAV are recognized their right to self-determination, therefore, the enforcement authorities and the subjects of control must assume the measures required to guarantee the conservation of the living space of these indigenous groups and ensure that they fully enjoy their rights.
- d. No contact: the principle of no contact is the embodiment of the right of PIAV to self-determination and is a fundamental condition for the protection of their rights and the preservation of their culture. The enforcement authorities and the subjects of control must take the necessary measures to effectively prevent outsiders or their actions from affecting or intuiting, either accidentally or intentionally, persons belonging to these indigenous groups and, consequently, generating possible violations of their rights. Non-contact should in no case be considered as proof of the non-existence of these peoples.
- e. Precaution: public decision making will be timely and appropriate. Precaution requires taking preventive measures in case of uncertainties or doubts about public or private actions such as, for example, the opening of roads, electrification, construction of platforms, overflights or other activities that may affect the rights of PIAV.
- f. Dignity: The equal dignity of all individuals and groups in their diversity is recognized, as well as that of their particular worldviews, philosophies, social relations, ways of life, knowledge, organizations, decision-making and other socio-cultural expressions.

- g. Interculturality: seeks to promote among all actors, whether state or non-state, processes of consensual and bidirectional dialogue aimed at generating an interrelation and articulation between the different cultures, with the aim of establishing equally beneficial relations within the framework of the decisions made by each of the parties. The enforcement authorities and the subjects of control must respect the decisions made by PIAV in exercising their right to self-determination.
- h. Interdependence: given the state of vulnerability of PIAV, it is recognized that any affection to any of their rights may in turn have an impact on the normal exercise of the other rights that these groups possess, therefore, in case of possible effects, immediate, comprehensive and culturally appropriate measures of reparation will be taken.

## Paraguay

The guiding principles that guide the confirmation of and respect for the existence of PIA are the basic principles that define Iniciativa Amotocodie (IA), namely:

- > The principle of self-determination
- > The principle of precaution
- > The *pro homine* principle

IA applies the regulations or interpretation most favorable to the individual or the community, in all issuance of acts, resolutions or actions that involve or concern the protection or limitation of Ayoreo PIA rights.

### 1. The principle of progressivity

Our organization is constantly seeking to expand human rights and protection mechanisms in light of the prevailing needs of the context or changing realities.

The principle of progressivity of human rights implies gradual progress to achieve full compliance, i.e., that the fulfillment of certain rights requires the adoption of short, medium and long-term measures, but proceeding as expeditiously and effectively as possible (ilpy, 2024, p. 34).

In keeping with these principles, it is necessary to emphasize that, since its inception, IA has conceived that the confirmation of a PIA transcends the question of their physical existence or territorial scope, and that the recognition of their spiritual and cultural existence is posed as a challenge to global society, especially in these times of world crisis. As a guiding principle for the confirmation of the Ayoreo PIA, the weight of the cultural and spiritual dimension



of “being” in the indigenous and native worlds is emphasized, as opposed to the view that, from modernity, this is given as a mainly “physical” existence that is materialized in a “territory” (understood as physical space, extension of a measurable and quantifiable area in its contents). In the experience developed by IA, we understand that it is necessary to make this emphasis, since modernity ignores it and tends to postpone, minimize or even ignore the cultural and spiritual aspects that give relevance to human existence as part of the world.

“Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation or Initial Contact in the Ayoreo Totobiegosode Natural and Cultural Heritage-PNCAT, located in the Department of Alto Paraguay, Paraguayan Chaco” (2018), approved in 2018 by the Inter-institutional Commission for the Protection of Indigenous Peoples in Isolation or Initial Contact of the Human Rights Network of the Executive Branch (General Directorate of Human Rights of the Ministry of Justice). This protocol was developed before

the need for an instrument to effectively guarantee the respect and safeguarding of the rights of the Ayoreo Totobiegosode people in isolation and initial contact and to join efforts to assist them (“Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation”, 2018).

It is textually limited to a single group, the Totobiegosode, without considering the existence of other groups in a similar situation. In spite of this, on one occasion in the past, the State operated preventively in a case outside of the PNCAT, in an area where, according to signs, it would not be a group belonging to the Totobiegosode. Then, on other occasions, the application of the protocol was denied because the situation was outside the PNCAT, even without being able to determine whether it was Totobiegosode or another Ayoreo group in isolation.

The behaviors and implementation of procedures for the prevention of unwanted contacts and contingencies are based on the following guiding principles:

- \* Pro-persona principle: implies the application of the rule that is most favorable to the human being and that guarantees, in the most effective manner possible, the human rights and fundamental rights recognized in the national Constitution.
- \* Principle of no contact: those who, in the course of their public or private activities, are in the PNCAT or in areas close to it, must avoid contact, due to their particularly vulnerable situation, as they have not developed an adequate immunological response to contact with the external population.
- \* Principle of prevention: anyone who develops activities within the PNCAT, or in areas close to it, must implement actions to avoid or mitigate any impact or effect on the life or health of the Ayoreo Totobiegosode people.





- \* Principle of vulnerability: the action or development of any activity is carried out considering that the rights of the Ayoreo Totobiegosode are exposed to a situation of vulnerability when faced with any contact. The behaviors and procedures to be implemented in the event of contingencies must at all times take into account such vulnerability.
- \* No harm principle: applicable in health matters to indigenous peoples in initial contact; it entails both the guarantee of the right to life and the establishment of measures to obtain the highest possible level of health.
- \* Principle of inter-institutional cooperation: consists of an agreement between two or more institutions that join forces in search of a common good, contributing from their own strengths, taking into account that there are several institutions involved.

## Peru

Ministerial Resolution 240–2015–MC.<sup>37</sup>

- \* *Pro homine* principle: implies the application of that rule, measure, strategy or action that is most favorable to the human being and that guarantees, in the most effective manner possible, the human rights and fundamental rights recognized in the Political Constitution of Peru.
- \* Principle of no contact: those who, in the course of their public or private activities, are in areas close to territorial or indigenous reserves, or areas with the presence of PIA, must avoid contact, given their particularly vulnerable situation, as they have not developed an adequate immunological response to contact with external populations.
- \* Principle of prevention: anyone who develops activities in areas near or within territorial or indigenous reserves, or in areas with the presence of PIACI, must implement actions to avoid or mitigate any impact or effect on the life or health of these peoples.
- \* Principle of self-determination: consists of respecting and guaranteeing the decisions of PIACI regarding their situation of isolation, initial contact and when changing their current situation. Respect for this principle leads to effective measures being taken to prevent outsiders or their actions from accidentally or intentionally affecting or influencing PIACI. In the event that contact is sought, specific measures must be taken to act in accordance with the principle of self-determination and in response to any risk situation.
- \* Principle of vulnerability: the action or development of any activity is carried out considering that the rights of PIACI are exposed to a situation of vulnerability when faced with any contact. The behaviors and procedures to be implemented in the event of contingencies must at all times take into account such vulnerability.

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<sup>37</sup> Adapted from Ministry of Culture and USAID (2016).

- \* No harm principle: principle applicable in health matters to indigenous peoples in initial contact; it entails both the guarantee of the right to life and the establishment of measures to obtain the highest possible level of health (ILPe, 2024, p. 26).

## **Venezuela**

The Bolivarian Republic of Venezuela recognizes, in the Preamble of the Constitution, that indigenous peoples are a multiethnic and multicultural society, thus dedicating an entire chapter to them (chapter VIII). This is an extensive set of articles that recognizes their existence as native peoples, as well as their social, political and economic organization, their own justice systems, cultures, uses and customs, languages and religions, habitats and rights over the lands they ancestrally and traditionally occupy. The following articles are detailed below:

Article 119. Recognizes the existence of indigenous peoples and communities and their territorial rights, which shall be inalienable, imprescriptible, unseizable and non-transferable. Article 120. The use of natural resources in indigenous habitats by the State shall be made without harming their cultural, social and economic integrity, and is also subject to prior information and consultation with the respective indigenous communities. Article 121. Indigenous peoples have the right to maintain and develop their ethnic and cultural identity, worldview, values, spirituality, and their sacred places and sites of worship. The State shall encourage the appreciation and dissemination of the cultural expressions of indigenous peoples. Article 122. Indigenous peoples have the right to comprehensive health care that takes into account their practices and cultures. Article 123. Indigenous peoples have the right to maintain and promote their own economic practices. Article 126. Indigenous peoples, as cultures with ancestral roots, are part of the nation, of the State and of the Venezuelan people as unique, sovereign and indivisible.

### ***Organic Law of Indigenous Peoples and Communities, 2005. Official Gazette 38344 dated December 27, 2005.***

Chapter I. Recognition of the rights of indigenous peoples

Article 5. Indigenous peoples and communities have the right to autonomously decide and assume control of their own institutions and ways of life, their economic practices, their identity, culture, law, customs, education, health, worldviews, protection of their traditional knowledge, use, protection and defense of their habitat and lands and, in general, of the daily management of their community life within their lands in order to maintain and strengthen their cultural identity.

Indigenous peoples and communities have the right to participate in the administration, conservation and use of the environment and natural resources existing in their habitat and lands.



## Chapter II. Prior and informed consultation

Article 11. Any activity that may directly or indirectly affect indigenous peoples and communities must be consulted with the indigenous peoples and communities involved [...]. Any activity for the use of natural resources and any type of development projects that may be carried out in indigenous habitats and lands shall be subject to the information and prior consultation procedure, pursuant to this law.

Article 12. The execution of activities in the habitat and lands of indigenous peoples and communities that severely or irreparably affect the cultural, social, economic, environmental or any other type of integrity of said peoples or communities is prohibited.

## Chapter III. Demarcation of the habitat and lands of indigenous peoples and communities

Article 23. The State recognizes and guarantees the native right of indigenous peoples and communities to their habitat and to the collective ownership of the lands they ancestrally and traditionally occupy.

Article 28. Indigenous peoples and communities have the right to use, enjoy, exploit, and to participate in the administration of their habitat and lands, in order to maintain their ways of life, promote their economic practices and define their participation in the national economy.

## Chapter VI. Use of natural resources, habitat and lands of indigenous peoples and communities

Article 53. Indigenous peoples and communities have the right to the sustainable use and exploitation and to the administration, conservation, preservation of environment and biodiversity. The water, flora, fauna and all natural resources found in their habitat and lands, may be used by indigenous peoples and communities for development and traditional activities.

## Chapter VII. Relocation

Article 61. In cases of invasion, illegal occupation or disturbance of the indigenous habitat and lands by third parties, the indigenous peoples and communities shall exercise the actions set forth in the applicable laws, for the purpose of recovering their lands and immediately ceasing any disturbance. The State shall, through the enforcement agency, ensure and guarantee the protection and safeguarding of the rights of indigenous peoples and communities over their habitat and lands.

### ***Title IV. Education and culture***

#### Chapter I. Own education and intercultural bilingual education system

Article 74. The State guarantees indigenous peoples and communities the right to their own education as a process of dissemination and to a bilingual intercultural educational system, taking into account their socio-cultural particularities, values, traditions and needs.

#### Chapter II. Culture

Article 86. The State recognizes and guarantees the right of each indigenous people and community to exercise their own culture, freely expressing,

practicing and developing their ways of life and cultural expressions, strengthening their own identity, promoting the linguistic vitality of their language, preserving their own vision of the world, professing their religions, beliefs and cults, as well as conserving and protecting their sacred places and sites of worship.

***Law of Demarcation and Guarantee of the Habitat and Lands of Indigenous Peoples, 2000. Official Gazette 37118 dated January 12, 2001.***

Chapter I. Fundamental provisions

Article 4. The process of demarcation of the habitat and lands of indigenous peoples and communities will be carried out by the National Executive, through the Ministry of Environment and Natural Resources, jointly with the legally established indigenous peoples, communities and organizations.

Article 8. In order to guarantee the native rights of indigenous peoples and communities over their habitat and lands, the National Demarcation Process will be carried out taking into account the consultation and direct participation of indigenous peoples and communities, as well as their ecological, geographic, toponymic, populational, social, cultural, religious, political and historical realities.

**NGO**

The guiding principles that we have assumed, together with the indigenous grassroots organizations, in this challenge of building a work route that makes possible the recognition of PIACI, are found in legal instruments, based on international law, specifically in human rights, rights of indigenous peoples and, particularly, with an emphasis on the recognition of the rights of indigenous peoples in isolation, where their right to self-determination and no contact is respected, as the basis for their protection; the right of PICI based on respect for their social organization, customs, languages, beliefs and traditions, as well as respect for their lands and territories (ILVe, 2024, p. 38).

# 1.7

## Human rights and PIA.

### Rights standards in the process of recognizing the existence of PIA

Article XXVI, “Indigenous Peoples in Voluntary Isolation or Initial Contact,” of the American Declaration on the Rights of Indigenous Peoples, recognizes the participation of indigenous organizations in the different areas of protection of PIACI:

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.

As highlighted in the Local Report Peru (ILPe), the Office of the United Nations High Commissioner for Human Rights (OHCHR, 2012) establishes the general framework for the development and implementation of PIACI protection policies, in accordance with international rights standards. This instrument contains some conceptual and methodological elements of reference for recognizing the existence of PIACI, guaranteeing respect for their rights.

Paragraphs 10 and 11 (B. What evidence is there of their existence?), 68 and 69 (v. Towards the implementation of public policies and action programs: proposal for action), consider the identification and recognition of PIA is considered a priority action to establish protection measures:

68. The first important issue is the recognition by States of the existence of indigenous peoples in isolation and the establishment of a willingness on the part of all actors to take measures to protect their rights. The analysis of the situation of indigenous peoples in isolation or initial contact must prioritize the objective and duly supported assessment of the existence of these peoples (OHCHR, 2012, p. 20).

It also points to the obligation of States to promote the identification of PIACI with the necessary technical capabilities:

69. The State, through its specialized technical agencies, should implement the necessary mechanisms so that, through multidisciplinary and scientifically rigorous studies, it can address and adopt decisions concerning the identification of indigenous peoples in isolation or initial contact, as well as the establishment of indigenous reserves in their favor (OHCHR, 2012, p. 20).



On the other hand, the guidelines point out that work on the recognition of the existence of PIACI is not the exclusive task of government institutions. On the contrary, methodologies should include the participation of key actors in civil society, particularly indigenous organizations:

10. In order to carry out these preliminary recognition studies, States should involve national, regional and local indigenous organizations and civil society organizations working for the protection of peoples in isolation (OHCHR, 2012, p. 6).

The guidelines clearly establish the basic premises for the development of research work in the territory. This means that, such actions must be carried out in compliance with the principle of no contact and, therefore, through “indirect actions”<sup>38</sup> that mitigate as much as possible the risks of contact between the research team and the people in isolation:

10. When it is necessary to identify the existence of these peoples, such as, for example, the demarcation of lands or the delimitation of buffer zones, the only actions that should be undertaken for their identification are indirect actions [...]. The principle of no contact must always be assumed as a fundamental condition when carrying out these actions (OHCHR, 2012, p. 6).

In addition, the guidelines develop some of the basic elements that should be included in PIACI identification and recognition studies, framed within the aforementioned indirect methodology. One of the key points is the definition of a time limit for evidence recorded in recognition studies, establishing a period of no more than three years from the time of documentation (OHCHR, 2012). This timeframe was adopted in the regulations (Supreme Decree 008-2007-MIMDES, as amended in 2016 by Supreme Decree 008-2016-MC) of Peru’s 2006 PIACI Law, which Article 15, detailing the Content of the Preliminary Recognition Study (EPR), is reproduced verbatim in the guidelines. In this regard, the question arises as to whether in practice it is possible and relevant to comply with the deadline for data validity, especially considering the long delays that characterize the processes of recognition of indigenous peoples in isolation and categorization of their territories. We must remember that evidence of more than three years also indicates the presence of a people in a given territory, since the nature of their decision to be isolated makes it difficult to obtain such recent information and their relationship with the territory is much longer than such a short period of time. On the other hand,

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<sup>38</sup> The OHCHR (2012) defines “indirect actions” as follows: “Indirect action means various types of actions, among which we can mention: aerial photographs of their campsites, visits to abandoned campsites, evidence of steps, abandoned contraptions, accounts of contacts told by nearby peoples or testimonies of indigenous people who for one reason or another ceased to be in isolation or the historical series of geo-referenced information” (p. 6, footnote).

the knowledge of indigenous peoples to identify testimonies of indigenous peoples in isolation and the new technologies developed by archaeology and remote sensing/geo-processing allow us to date this evidence for periods longer than three years. We will address this topic later.

10. States shall conduct preliminary recognition studies, which shall include an anthropological analysis containing studies on oral tradition in the area of influence, kinship relations with possible nearby communities and physical evidence, with a registration period of no more than three years, found by a technical fieldwork team that supports the existence of a people in isolation or initial contact. Likewise, the EPR must identify the people and indicate an estimate of their population and the lands they inhabit (ohchr, 2012, p. 6).

The guidelines, based on evidence of the existence of PIA, reinforce the principle of no contact: “11. Non-contact should in no case be considered as proof of the non-existence of these peoples (OHCHR, 2012, p. 6).

The report of the IACHR and the Organization of American States (OAS), “Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: Recommendations for the Full Respect of Their Rights” (2013) highlights in paragraph 21 (A . Self-determination and principle of no contact) the following:

If unwanted contact is eliminated, most threats are eliminated and respect for the rights of such peoples is guaranteed. Therefore, in the Commission’s opinion, it is essential that any effort to strengthen this respect be fundamentally governed by the principle of no contact, and that contact should only take place when encouraged by peoples in isolation. [...] For PIAV and initial contact, the right to self-determination has a direct and profound relationship to the rights to their lands, territories and natural resources (p. 10).



# 1.8

## Methodologies for recognizing the existence of PIA by States, indigenous organizations and civil society organizations in South America

The methodology for recognizing the existence of PIA is a set of rules and procedures adopted to conduct research with the aim of systematizing the evidence of the existence of an indigenous people in isolation, in a given context and in a specific territory, in order to confirm or refute their existence.

The official recognition of a given PIA is carried out through methodologies adopted by the States. In this regard, for the purpose of this IRM we distinguish three different (although interrelated) methodologies, which are: 1) direct methodology; 2) indirect methodology; and 3) indigenous methodology. These methodologies experience a discursive dichotomy between “invasive” and “non-invasive”, or “direct” and “indirect”, which, when analyzed in detail, based on the information presented in the local reports, reveal more similarities than differences. All of them are based on the principle of respect for isolation and the prerogative of self-determination of these peoples.

In all methodologies, indigenous communities and population centers that border or share territories with PIA are visited in order to collect testimonies of evidence of the presence of indigenous peoples in isolation in the region. Based on these testimonies, expeditions are made into the forest to accredit such evidence reported by third parties, when it is certain that PIA are no longer in the region. The only divergence is in the acts of proof of signs. The direct methodology, on the other hand, in addition to verifying the testimonies reported by third parties, goes deep into the forests, by means of planned expeditions, in search of new evidence, and only withdraws when recent traces are located, indicating the close presence of isolated persons.

The ILPe highlights the basic premises established in the OHCHR guidelines (2012) for the development of research work in the territory. This means that, such actions must be carried out in compliance with the principle of no contact and, therefore, through “indirect actions” that mitigate as much as possible the risks of contact between the research team and the people in isolation:

When it is necessary to identify the existence of these peoples, such as, for example, the demarcation of lands or the delimitation of buffer zones, the only actions that should be undertaken for their identification are indirect actions. [...] The principle of no contact must always be assumed as a fundamental condition when carrying out these actions (p. 6).





The OHCHR (2012) defines “indirect actions” as follows:

Indirect action means various types of actions, among which we can mention: aerial photographs of their campsites, visits to abandoned campsites, evidence of steps, abandoned contraptions, accounts of contacts told by nearby peoples or testimonies of indigenous people who for one reason or another ceased to be in isolation or the historical series of geo-referenced information (p. 6).

The OHCHR guidelines do not differentiate between the recognition of the existence of PIA and their identification as a nation/people. Recognition of existence means confirming that the State must officially register it and implement the applicable protection measures in accordance with the guiding principles. Identification is a broader, post-recognition process. It implies, in developing a PIA, a research that guarantees the identification of a segment of this from the following aspects: cultural identification, language, ethnohistory, social organization, extent and territorial management, material and food culture, aspects of their worldview, etc.

The local reports provide, in their respective countries, the methodologies used to recognize the existence of PIA. These methodologies, conceived and developed by States, civil society organizations and indigenous peoples and organizations, are provided in a non-linear manner (temporally or conceptually), since their “preparation” took place on an empirical and evolutionary basis. In the case of indigenous methodologies, they do not fit into a western methodological systematization. This challenge of considering these indigenous methodologies in the sphere of the State and non-indigenous civil society organizations implies the acceptance and inclusion of these peoples in their professional staff, not only as a support role, but also as co-creators of truthful evidence and co-managers of protection policies.

A summary of these methodologies, compiled from local reports, is shown below by country ([Table 4](#)).

Table 4. Summary of recognition methodologies by country

Country	State Methodology	NGO methodology	Methodologies of indigenous peoples and organizations
<a href="#">Bolivia</a>	Existing. Not effective and not specific for PIA. Under the principle of no contact	Existing in process. Under the principle of no contact	Existing. Not systematized in writing. Under the principle of no contact
<a href="#">Brazil</a>	There is an institutional practice. Not formalized. Under the principle of no contact. Direct methodology	Existing in process. Only EAPIL/CIMI makes field expeditions to recognize the existence of PIA, prioritizing the regions where FUNAI does not operate. Under the principle of no contact	Existing, but not systematized in writing. Under the principle of no contact
<a href="#">Colombia</a>	In process. Under the principle of no contact. Indirect methodology	Existing and systematized. Under the principle of no contact. Indirect methodology	Existing. Not systematized in writing. Under the principle of no contact. Indirect methodology
<a href="#">Ecuador</a>	Not existing. Under the principle of no contact	Not existing	Existing. Not systematized in writing. Under the principle of no contact
<a href="#">Paraguay</a>	Not existing	Existing and systematized. Under the principle of no contact. Mixed methodology based on the collection of testimonies, field verification of evidence and analysis of satellite images and drone flights.	Existing. Not systematized in writing. Under the principle of no contact
<a href="#">Peru</a>	Existing. Under the principle of no contact. Indirect methodology, based on the collection of direct and indirect testimonies, as well as the analysis of satellite images and overflights	Not existing. Not systematized	Existing. Under the principle of no contact. Indirect methodology, based on the collection of direct and indirect testimonies, as well as the analysis of satellite images and overflights
<a href="#">Venezuela</a>	Not existing	Existing in process. Under the principle of no contact	Existing. Not systematized in writing. Under the principle of no contact

Source: author.



The analysis of the methodologies for the recognition of PIA in South America, provided in the local reports for each of the seven countries with PIA records, systematized in Table 4, reveals a diversity of methodologies which, although they may seem competing in terms of formats, foundations and procedures, show more similarities than divergences. If we previously distinguished them into “direct” and “indirect” methodologies, attributing them to “direct” and “indirect actions”, respectively, and furthermore, dichotomizing them as if they were antagonistic, our regional analysis led us to conclude that these methodologies respond to different contexts (political, cultural, legal, economic, social and cosmological) and, therefore, are consistent with the specificities of each country and its contexts.

We found symmetries of fundamentals with slight differences in their implementations, whether in techniques, methods or procedures. However, they all converge and agree on the principle of no contact as a guarantee of the right to self-determination of PIA. We must reinforce what has already been said: the only divergence lies in the acts of proof of evidence. Both carry out expeditions into the forest. The indirect methodology only does so to accredit evidence reported by third parties, when it is certain that PIA are no longer in the region. The direct methodology, on the other hand, in addition to checking the evidence reported by third parties, goes deep into the forests, by means of planned expeditions, in search of new evidence, and only withdraws when recent evidence is located, indicating the nearby presence of isolated people.

As the ILPy (2024) rightly points out, the recognition of the existence of a PIA is not reduced to the proof of their “physical existence” nor to the “definition of their territories”. Recognition, where possible, must take cultural agendas into account, but must take them irrevocably into account when identifying these peoples:

Iniciativa Amotocodie has conceived that the confirmation of a PIA transcends the question of their physical existence or territorial scope; rather, it highlights the recognition of their spiritual and cultural existence as a challenge to global society, especially in these times of world crisis. As a guiding principle for the confirmation of the Ayoreo PIA, it emphasizes the weight of the cultural and spiritual dimension of “being” in the indigenous and native worlds, as opposed to the view that from modernity is given as a mainly “physical” existence that is materialized in a “territory” (understood as physical space, extension of a measurable and quantifiable area in its contents). In the experience developed by the NGO Iniciativa Amotocodie (IA), we understand that it is necessary to make this emphasis, since “modernity not only fails to do so, but, on the contrary, tends to postpone, minimize or even ignore the cultural and spiritual aspects that give relevance to human existence as part of the world” (pp. 34–35).

In my perception, in the indigenous worlds there is an inversion of our view of modernity, in the sense that culture and spirituality are not based on physical or material existence (a territory with geographical characteristics and delimitations, Ayoreo YPFB very clearly, exists beyond the physical world of the moment and the concrete

territory, in other worlds and other dimensions. Example: the pink color of dawn (edopasade of the Etacorone clan) “occurs”, “exists” beyond a specific territory (as a physical space) at a given point in history.

The physical territory (territory in the meaning of modernity) of a PIA is the expression of their being at a given time. If we anchor their existence to that moment, we freeze a being that is and lives, in essence, transcendently.

We could be tempted to say that the Ayoreo world, in all its dimensions, only exists because today there is—from the dimension of their physical and territorial life— an Ayoreo who says it or pronounces their name. On the other hand, we also know that, contrary to our vision that wants to settle things once and for all, the Ayoreo vision insists on the need to say the world anew every day... Perhaps to say it in the sense of calling it so that it is incorporated anew into each person (Benno Glauser, personal communication with Luis María de la Cruz, Asunción, December 12, 2023).

The systematization, by country, of the methodologies implemented by States, civil society organizations and indigenous peoples and organizations, led us to understand them in their local and regional contexts, including their implementation and systematization.

The diverse contexts already mentioned (political, cultural, legal, economic, social and cosmological), experienced by each PIA in the seven countries, suggest different strategies and procedures, both for the condition of these peoples and for the processes and protocols for the recognition of their existence. For such purpose, we quote the cases of peoples who practice agriculture, with open-air villages and clearings, as opposed to hunter-gatherers<sup>39</sup> (non-agricultural), since they do not carry out extensive logging to plant their crop fields and, as a general rule, do not build large collective houses that are easily detectable at a distance, from inside an aircraft or by satellite image. Most of these peoples practice repeated (and seasonal, marked by rainy and dry seasons) migration through temporary villages, built under the canopy of trees. In the case of isolated agricultural villages, the visibility of their crop fields and villages, through satellite images or overflights, is located with some ease, which is not the case for hunters and gatherers (non-agricultural, which requires expeditions to the territories to verify the evidence of their dwellings). These characteristics lead to the definition of different strategies and procedures for their recognition.

The details and simplified analysis of the contents of [Table 4](#) are shown below.

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<sup>39</sup> Hunters, fishermen and gatherers also adopt elaborate forest management technologies to obtain food (tubers, roots, etc.), but, in general, they do not open clearings. They carry out agriculture activities by dispersing seeds or in small gardens.



### 1.8.1 *Methodologies for recognition of PIA developed by the States in each of the seven countries*

1. Bolivia, Brazil, Colombia, Ecuador and Peru recognize isolation as a guarantee of PIA self-determination; Paraguay<sup>40</sup> and Venezuela<sup>41</sup> do not have an official legal system that recognizes the existence of PIA in the national territory; only Bolivia and Ecuador specifically integrate PIACI in their constitutions.
2. Bolivia and Peru have protocols for the recognition of PIACI through laws and supreme decrees.

In the case of Bolivia, the ILBo points out that the protocol for the identification and registration of highly vulnerable indigenous nations and peoples (which includes PIA, approved in 2022), if implemented, lacks specificity to work on a methodology for the identification of PIA and, consequently, recognition of their territoriality. There is also a tendency to approach peoples from a position of high vulnerability rather than isolation.

In the case of Peru, there are protocols for the recognition of PIACI. The process begins with a request (by an indigenous organization, an NGO or by order of the Ministry of Culture/Vice-Ministry of Interculturality, etc.)

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<sup>40</sup> Paraguay has recognized the existence of PIA in court rulings and in its legislation. At the regulatory level, framed in the same case of the defense of rights over the territory of the Defensores del Chaco National Park and particularly Cerro León, Law 5540 (amending Law 5392 of 2015), sanctioned on December 17, 2015 and published on December 23 of the same year, expresses that in preparing the Management Plan of the Defensores del Chaco National Park, “the prohibition of high impact activities that alter the natural ecosystem of the forest-dwelling indigenous communities that inhabit the area must be taken into account”. In this regard, a very limited achievement is the “Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation or Initial Contact in the Ayoreo Totobiegode Natural and Cultural Heritage-PNCAT, located in the Department of Alto Paraguay, Paraguayan Chaco” (2018), approved in 2018 by the Inter-institutional Commission for the Protection of Indigenous Peoples in Isolation or Initial Contact of the Human Rights Network of the Executive Branch (General Directorate of Human Rights of the Ministry of Justice).

<sup>41</sup> The IACHR itself states that the response sent by the Ministry of Popular Power for Foreign Affairs of Venezuela to the Questionnaire for Consultation on PIACI carried out by said entity, informed that “there are currently no indigenous people in voluntary isolation or initial contact”. However, the Ombudsman’s Office of the Bolivarian Republic of Venezuela stated in its response to the same instrument that “in Venezuela there are communities belonging to three indigenous peoples, who remain in a certain relative isolation or initial contact. These indigenous peoples live in the south of the country in the states of Amazonas and Bolívar, they are the Hoti, Yanomami and Piaroa”. The Ombudsman’s Office and sectors of the Ministry of Health recognize the existence of PIA: “some bodies of the Ministry of Popular Power for Health of Venezuela not only recognize the presence of isolated or recently-contacted groups, but also have some concrete actions that go along the line of special protection, promoting their recognition and specific health care. Likewise, “a State body, the Ombudsman’s Office, has managed not only to recognize their presence, but also to make proposals to bodies such as the National Constituent Assembly, trying to include in the Constitution a reference to PIA” (s. d.).

which, after being favorably assessed, is passed on to the PIACI Multisectoral Commission, which will determine the establishment of a technical team to prepare the EPR. However, regarding the participation of indigenous organizations in this process, the ILPe (2024) emphasizes:

- a. According to Law 28736<sup>42</sup> and its regulation, Supreme Decree 008-2007-MIMDES, the recognition of an indigenous people in isolation is considered the first phase of the process of creating an indigenous reserve, i.e., the specific territorial figure recognized by the Peruvian framework for the protection of PIACI.
- b. The research that generates the studies required to recognize peoples in isolation and create reserves is carried out through the recruitment, by means of a public tender, of external consulting teams, generally NGOs with technical expertise.
- c. The methodological guidelines on which the technical studies are developed are established, on the one hand, in Law of 2006<sup>43</sup> (known as the “PIACI Law”),<sup>44</sup> that describe in general terms the contents or structure of the EPR and the Additional Categorization Study (EAC),<sup>45</sup> and, on the other hand, in the criteria defined by<sup>46</sup> the *pro homine* principle, the principle of no contact, the no harm principle, the principle of vulnerability, the principle of self-determination and the principle of prevention. Taking both sources as a reference, and based on the technical documentation submitted by the requesting party and other existing documentation, the Ministry of Culture and the designated external institution define the methodological design to be carried out for each study.
- d. Peru’s national framework for the protection of PIACI, and its regulations, recognize, to a limited extent, the participation of indigenous organizations in some spaces and processes, with respect to the recognition of PIA:
  - > Indigenous organizations —as well as other institutions such as regional or local governments, academic organizations and communities— may propose or request the Ministry of Culture to initiate processes for recognizing the existence of an indigenous people in isolation or initial contact, or the creation of an indigenous reserve for the protection of the territory of an already recognized people.

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<sup>42</sup> Article 3 of Law 28736 establishes the procedure for recognizing a human group or indigenous reserves with the category of indigenous people in isolation or initial contact.

<sup>43</sup> Law for the Protection of Indigenous or Native Peoples in Isolation and Initial Contact.

<sup>44</sup> Supreme Decree 008-2007-MIMDES, as amended in 2016 by Supreme Decree 008-2016-MC.

<sup>45</sup> Articles 15-22 of Law 28736 and its regulations, Supreme Decree 008-2007-MIMDES, as amended in 2016 by Supreme Decree 008-2016-MC.

<sup>46</sup> The instrument referred to is the “Protocol of action upon discovery, sighting or contact with Indigenous Peoples in Isolation and for relations with Indigenous Peoples in Initial Contact”, in force since 2015.



- > In the processes of recognition of an indigenous people in isolation or initial contact or the creation of indigenous reserves, after the admission of a request, the participation of two national Amazonian indigenous organizations is considered, AIDESEP and the National Council of Protected Areas (CONAP), as members of the Multisectoral Commission created to follow up on the aforementioned processes. The weight of the indigenous organizations referred to in these processes is very limited,<sup>47</sup> given that the composition of the members of the Commission is mostly made up of State sectors.<sup>48</sup> Within this space, decisions are made by majority vote.
- > In relation to the implementation of protection, within the current framework, the reference to the participation of indigenous organizations is established in general terms and at the level of coordination and exchange of information: “State institutions and civil society participate in achieving any objectives under the Law, pursuant to the regulations in force. The Vice-Ministry of Interculturality (VMI) and the Amazonian indigenous organizations establish coordination mechanisms for exchange of information on peoples in isolation and initial contact”.
- > Participation in Protection Plans and Protection Management Committees:<sup>49</sup> Law 28736 and its regulations establish specific management instruments for indigenous reserves, referred to as Protection Plans. The rule does not mention an effective recognition of the participation of indigenous organizations in

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<sup>47</sup> In the best case scenario, the voting would be 13 votes (State and universities) versus 2 (AIDESEP and CONAP). Although the participation (right to speak and vote) of local authorities (regional and provincial governments) of the sectors where there is a proposal to recognize a PIA or establish indigenous reserves is recognized, the same does not happen with the indigenous organizations, since only two national organizations are represented.

<sup>48</sup> Supreme Decree 008-2007-MIMDES, Article 9: “Participation of civil society”.

<sup>49</sup> The Multisectoral Commission is made up as follows: 1) a representative of the DGPI of the MC, acting as president; 2) a representative of the Ombudsman’s Office; 3) a representative of the Ministry of Agriculture and Irrigation; 4) a representative of the Ministry of Environment; 5) a representative of the Ministry of Defense; 6) a representative of the Ministry of Health; 7) a representative of the Ministry of Education; 8) a representative of the Ministry of Energy and Mines; 9) a representative of the Ministry of the Interior; 10) a representative of the regional Government, where the people in isolation and initial contact are located. In the event that the area involves the jurisdiction of more than one regional government, a representative of each of them will be considered; 11) a representative of the Provincial Local Government, where the people in isolation and initial contact are located. In the event that the area involves more than one province, one representative from each province will be considered; 12) a representative specialized in Anthropology from a National University, designated by the National Assembly of Rectors; 13) a representative specialized in Anthropology from a Private University, designated by the National Assembly of Rectors; 14) a representative of AIDESEP, an indigenous organization with national representation, and 15) a representative of the Confederation of Amazonian Nationalities of Peru (CONAP), an indigenous organization with national representation.

the process of drafting this instrument and the importance of their role in the implementation of protection.<sup>50</sup> On the other hand, the participation of indigenous organizations is not explicitly mentioned in the Protection Management Committees—a mechanism created after the approval of an Indigenous Reserve’s Protection Plan and chaired by the VMI.<sup>51</sup> However, in practice, in all of Peru’s piaci Reserve Protection Management Committees, both the neighboring native communities and local, regional and national representative indigenous organizations actively participate.

3. In Colombia, the Ministry of the Interior is in the process of drafting the “Protocol for the Study and Official Registration of Indigenous Peoples in Isolation or in their Natural State in Colombia”, with the objective of methodologically guiding the registration process of Indigenous Peoples in Isolation (PIA/PIEN) in its different modalities. This protocol details the methodological path to conduct the research for the official studies of PIA/PIEN, in order to confirm their presence, identify their territoriality and proceed with their registration, if so warranted, in any of the three modalities set forth in the regulations, avoiding as much as possible any type of bias.
4. In the case of Brazil,<sup>52</sup> Ecuador, Paraguay and Venezuela, there are no official protocols, by means of laws and decrees, for the recognition of PIA established by States. In the cases of Paraguay and Venezuela, the situation is more delicate, since States do not officially recognize the existence of PIA in their national territories.

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<sup>50</sup> Supreme Decree 008-2007-MIMDES, Article 43: “For such purpose, the Vice-Ministry of Interculturality shall, sixty calendar days after the publication of the Supreme Decree that assigns the category of the Indigenous Reserve, publish in the Official Journal El Peruano, the Protection Plan indicating the functions of each sector, institution or organization, as well as the mechanisms for the participation of civil society institutions that have an interest in collaborating in the protection of the reserve, for which they will sign a cooperation agreement with the Vice-Ministry of Interculturality”.

<sup>51</sup> Supreme Decree 008-2007-MIMDES, Article 42. The composition of these committees is as follows: “1) a representative of the Vice-Ministry of Interculturality, acting as president; 2) a representative of the regional Government where the reserve is located; 3) a representative of the provincial municipality where the reserve is located; 4) a representative of the Regional Health Directorate; 5) a representative of the Regional Directorate of the Ministry of Education; 6) a local representative from the Peruvian National Police; 7) a representative of the General Forestry and Wildlife Directorate (DGffs) and the National Forest Service of Peru (SERFOR); 8) two indigenous representatives from neighboring native communities; and 9) any other institutions or organizations that the committee deems appropriate. In this regard, the participation of indigenous peoples is established through “two indigenous representatives from neighboring native communities”.

<sup>52</sup> In Brazil, these protocols are not formalized in administrative acts of the Brazilian State.





### 1.8.2 *Methodologies for recognition of PIA developed by Non-Governmental Organizations (NGOs) in each of the seven countries*

1. All civil society organizations (NGOs) working for the recognition (or protection) of PIA adopt the principle of no contact.
2. Only Colombia (ACT) and Paraguay (IA) have systematized methodologies for the recognition (and protection) of PIA.
3. Bolivia (CEJIS, CITRMD), Brazil (EAPIL/CIMI) and Venezuela (WATANIBA) are in the process of developing their methodologies for the recognition of PIA.
4. Ecuadorian NGOs (FEPP, LIL) do not have their own methodology for the recognition (and protection) of PIA. FEPP made a compilation of the actions developed by the State, but this work is not public.
5. In Peru, NGOs, in accordance with current regulations, are required to comply with the official indirect methodology established by the State in the process of preparing the Preliminary Recognition Studies and the Additional Categorization Studies required by law, following the methodology defined by the Ministry of Culture. The NGOs World Wildlife Fund(WWF), Instituto del Bien Común (IBC) and Corporación Ecuatoriana para el Desarrollo de la Investigación y la Academia (CEDIA), among others, developed the EPR for the State, based on a public bidding process, following the methodology proposed by the Ministry of Culture/ Vice-Ministry of Interculturality. However, these NGOs do not have their own methodologies and systematization.<sup>53</sup>

### 1.8.3 *Methodologies for recognition of PIA developed by indigenous peoples and organizations in each of the seven countries*

1. Civil society organizations in Bolivia, Brazil, Colombia, Ecuador, Paraguay, Peru and Venezuela, which carry out recognition, identification and protection actions, accept the existence of indigenous protocols for the identification, recognition, coexistence and protection of PIA. These protocols, not yet systematized in writing, derive from oral tradition, ancestral wisdom and the millenary network of relationships among native

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<sup>53</sup> In the process of categorizing the Madre de Dios Territorial Reserve, the Ministry of Culture carried out technical work for the recognition of the Mashco Piro people, in the absence of effective communication with FENAMAD. For the preparation of the proposal for the categorization of the reserve, the Ministry of Culture hired the Non-Governmental Organization WWF. The collection of field information and the preparation of the corresponding file for the categorization of the area was carried out without the participation of or effective communication with FENAMAD. On several occasions during the process, the federation requested information on progress, as well as technical expert input in the analysis and discussion phase, but these requests were not met. FENAMAD only had access to the text of the document prepared when it was about to be submitted to the Multisectoral Commission (Law 28736) charged with evaluating and approving it (ILPe, 2024, p. 9).

peoples. It is possible to find some fragments of records of these protocols in a few published documents.

2. In Peru alone, indigenous organizations have systematized methodologies for the recognition of PIA. The ILPe provides information on the processes of identification and recognition of PIA, as requested by FENAMAD and admitted by the Ministry of Culture, referring to the Mashco Piro, Yora and Amahuaca peoples in isolation (Madre de Dios Territorial Reserve), as well as peoples in isolation in the geographic area of the Bahujaja Sonene National Park and Tambopata National Reserve, in the face of threats, among others, from hydrocarbon and mining activities; thus resulting in technical documentation for the opening of a recognition process, which is still pending.

The methodology for the recognition of PIA by the indigenous organization FENAMAD is unprecedented. Even before the legislation enacted by the Peruvian State (2006<sup>54</sup> —known as the PIACI Law—),<sup>55</sup> FENAMAD was already developing field research for the identification and recognition of PIA. With the institutionalization of the aforementioned law, FENAMAD's methodology underwent adaptations so that its requests could be accepted within the scope of the Ministry of Culture/Vice-Ministry of Interculturality. In Peru, all requests for identification and recognition of PIACI, admitted by the Ministry of Culture/Vice-Ministry of Interculturality, originated from requests by indigenous organizations.

3. Those States that have a relevant legislation for the identification and recognition of PIA do not accept indigenous protocols for such purpose. At most, they allow the participation of national representative indigenous organizations in governing bodies, but in unfavorable numbers, so their right to speak is defeated and silenced. They also admit, in some cases, the presence of indigenous people in their field teams, but as support or assistants.
4. The relations of Contacted Indigenous Peoples with PIA derive from the practices, coexistence protocols and policies for the protection and maintenance of the life of these peoples. These practices are the result of ancestral knowledge perpetuated for millennia, through oral tradition, in the intrinsic experience with their territories and peoples.
5. Relations between Isolated and non-isolated Indigenous Peoples have existed since the first contacts with colonizing society. Coexistence in large territories, with the presence of different peoples, customs and ways of life and territorial occupation, is only possible to this day due to the behaviors, protocols and agreements of living and existing in these territories.
6. The protection of peoples in isolation has always been a central part of these rules and behaviors, as everyone's way of life has always been surrounded by mutual respect and protection. When talking about

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<sup>54</sup> Law for the Protection of Indigenous or Native Peoples in Isolation and Initial Contact.

<sup>55</sup> Supreme Decree 008-2007-MIMDES, as amended in 2016 by Supreme Decree 008-2016-MC.

protection, we must understand that both sides are protected: those who consider themselves in isolation and those who believe to have been isolated from them. In the practice of self-protection, uncontacted peoples are seen as the most powerful, strongest and strategic to survive in the vast forests they occupy.

7. For many peoples, the connection to spirituality, nature and territory is the explanation why they continue to be protected from the contact pressure that has always existed from non-indigenous peoples. The knowledge and relationships between indigenous peoples who work daily to protect and those who resist contact are complex and wide-ranging.
8. The relationship between Contacted Indigenous Peoples and PIA transcends the physical and material realm.

### 1.8.4 *Detail of methodologies in each of the seven countries*

Below, we provide in detail, by country, the methodologies developed by States, NGOs and indigenous peoples and organizations. The information collected was taken from the local reports<sup>56</sup> prepared by the member organizations<sup>57</sup> of the GTI PIACI (Table 5).

## Bolivia

Table 5. Summary of recognition methodologies, Bolivia

Country	State Methodology	NGO methodology	Methodology of indigenous peoples and organizations
Bolivia	Existing. Not effective and not specific for PIA. Under the principle of no contact	In process. Under the principle of no contact	Existing, but not systematized in writing. Under the principle of no contact

Source: author.

<sup>56</sup> ILBo, ILBr, ILCo, ILEc, ILPy, ILPe e ILVe.

<sup>57</sup> The local reports were prepared by the following IWG PIACI member organizations: Bolivia: CEJIS and CITRMD; Brazil: EAPIL/CIMI, COIAB, CTI, OPI and Instituto Maira; Colombia: ACT and OPIAC; Ecuador: FEPP and LIL; Peru: FENAMAD; Paraguay: IA ; and Venezuela: Wataniba, ORPIA, OIPUS and Horonami.

## **State Methodology**

The Political Constitution of the Plurinational State (2009), in Article 31, paragraphs I and II, establishes that the segments in voluntary isolation and uncontacted peoples will be protected and respected in their individual and collective ways of life; in addition to enjoying the right to remain in this condition, thus recognizing the possibility of delimitation and consolidation of the territory they inhabit.

Law 450 for the Protection of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation came into force on December 4, 2013. Its main objective, expressed in its first article, is to establish mechanisms and sectoral and intersectoral policies for prevention, protection and strengthening to protect and guarantee the livelihood of highly vulnerable PIAV, whose physical and cultural survival is extremely threatened. "Because of its guaranteeing nature, such law recognizes the highly vulnerable condition of peoples in voluntary isolation", in addition to their protection to safeguard their rights and survival (CEJIS, 2021, p. 26).

In order to fulfill its objectives and provide assistance to highly vulnerable indigenous peoples, it provides for the creation of the General Directorate for the Protection of Native Indigenous Nations and Peoples (DIGEPIO), under the supervision of the Executive Branch. The functions would be aimed at carrying out the technical procedures for the identification of rights holders, and formulating and executing in coordination with the autonomous territorial entities, within the framework of their competencies, with organizations of the native indigenous nations and peoples, plans, programs, projects and strategies for prevention, protection and strengthening to safeguard the life systems. Other activities and programs described in the law include conducting comprehensive preliminary studies, recognition protocols and interdisciplinary analyses to identify situations of high vulnerability of indigenous nations and peoples or segments thereof, and developing monitoring indicators to assess situations of high vulnerability (Article 4, II, subparagraphs 2, 7, 8, 12 and 14) (CEJIS, 2021).

After almost ten years of waiting, the Government approved Supreme Decree 4793 dated September 7, 2022, which regulates Law 450 for the Protection of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation. The regulation provides for the operation of the DIGEPIO, which will depend on the Vice-Ministry of Native Indigenous and Peasant Justice and is within the Ministry of Justice and Institutional Transparency, in order to implement the powers set forth in Law 450. This institution will be headed by a general manager appointed by the minister of Justice and Institutional Transparency, and will have an operational level.

Article 6 of Supreme Decree 4793 creates the Committee for the Protection of Vulnerable Native Indigenous Peoples (CPPIOSV) as a coordination and public policy-making body for indigenous nations and peoples in a highly vulnerable situation. The CPPIOSV will be composed as follows: minister of Justice and Institutional Transparency, minister of Health and Sports, minister of Education, minister of Rural Development and Lands and minister of Cultures, Decolonization and Depatriarchalization.



For the identification (Article 9) of native indigenous nations and peoples, or any segments thereof, whose physical and cultural survival is extremely threatened, the DIGEPIO shall consider at least the following identification criteria: 1) population, territory and ancestry criteria,<sup>58</sup> 2) socio-cultural identity criteria and 3) technical criteria.<sup>59</sup>

In the case of native indigenous nations and peoples uncontacted or in voluntary isolation, the criteria indicated in subparagraphs 1 and 3 of the previous paragraph shall be initially applied, in addition to the methodologies for research or survey of socio-cultural information under international standards, ensuring the exercise of the self-determination of the nation or people, the protection of their territory and the preservation of their way of life (Article 9, I, II).

The procedure for the identification of a native indigenous nation or people, or any segments thereof, in a highly vulnerable situation, may be at the express request of: 1) the authorities of the native indigenous organization that have a national organizational structure and have a direct socio-cultural relationship with the nation or people under protection; 2) the autonomous territorial entities or other public institutions and 3) ex officio by the DIGEPIO, based on specific research conducted institutionally or in coordination with other public agencies (Article 10, I).

In the case of a native indigenous nation or people uncontacted or in voluntary isolation, the identification carried out shall in no case affect their life systems; the DIGEPIO shall apply the use of appropriate research methodologies in accordance with the standards for the protection of these populations (Article 10, II, III, IV).

Subsequently, on December 13, 2022, Ministerial Resolution RM-131-2022 "Protocol for the identification and registration of highly vulnerable native indigenous nations and peoples" (Plurinational State of Bolivia, 2022) came into force, with the purpose of identifying and registering these peoples. It also establishes that an interdisciplinary, legal, social, health and research team will be created to gather information for the identification of a highly vulnerable indigenous nation or people, or segments thereof, to be considered in the process. The Ministerial Resolution establishes a procedure to create a technical record of registered indigenous peoples in isolation; to this end, it establishes a registration methodology that initially identifies the name or denomination

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<sup>58</sup> It concerns the identification of a human community that shares cultural identity, language, historical tradition, democratic institutions, territory and territoriality, worldview, unique rules and procedures, whose existence predates the Spanish colonial invasion. For the purposes of prevention, protection and strengthening of a nation or people in a highly vulnerable situation, their demographic situation, culture, political and legal system, organizational structure, democratic institutions, rituals, development, self-determination and life experiences shall be taken into account.

<sup>59</sup> It corresponds to research, technical studies, direct actions, indirect actions, field surveys, participant observation and other tools used to establish the categorization of a native indigenous nation or people under protection by context, their degree of vulnerability, as well as the determination of the need or measure required.

of the highly vulnerable native indigenous people, the characterization, the relevant needs detected in the diagnosis, any necessary response measures, monitoring, follow-up and other necessary actions.

The State, through its regional and national institutions and authorities, in accordance with international standards,<sup>60</sup> is framed within national regulations for the development and implementation of public policies that protect the situation of highly vulnerable indigenous peoples, primarily from the point of view of health and education. This situation is evident in the actions of the CPPIOSV, and can be observed in the text and protocols under the responsibility of the DIGEPIO. The lack of clarity in working with a methodology that recognizes PIA and their territoriality is emphasized. On the other hand, there is a tendency on the part of the DIGEPIO to approach the peoples from their condition of high vulnerability instead of considering them as isolated (ILBo, 2024, p. 66).

In this regard, Ivan Bascopé, director of the DIGEPIO, states:

We have a work plan prioritizing eleven villages. In many of them we already have preliminary studies, conducted by us, with action plans, to see where we can work with them on any problems, in this case not with uncontacted people, but with their contacted brothers [...] we have created preliminary teams by people. For every people, we have certain specialists from some ministries, where we see how they can support us, they are people from the State, but also, in some cases, from organizations [...]. This requires the creation of roundtables and joint research, working with several NGOs. We are also working on early warning systems, which will be clear a year from now. That is also in the law, the computer system, to follow up on their protection (September 5, 2023) (ILBo, 2024, p. 63).

### **NGO methodology**

Despite the progress in terms of collective rights and the recognition of the rights of indigenous peoples, especially the right to live in voluntary isolation set forth in the Constitution, there is no adequate and standardized monitoring methodology to permanently follow up on the State, indigenous organizations and civil institutions to ensure they systematically record the signs of footprints, sounds, signals, trails, routes, material remains, etc., made by PIA; nor is there satellite monitoring of their areas of occupation that would reflect the threats and impacts suffered by the territories they inhabit. In

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<sup>60</sup> Namely: "Guidelines for the Protection of Indigenous Peoples in Isolation and Initial Contact in the Amazon Region, Gran Chaco and the Eastern Region of Paraguay", OHCHR, Geneva, February 2012; "Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: recommendations for the full respect of their Human Rights", OAS/SER.L/V/II., doc. 47/13 dated December 30, 2013, IACHR.

addition, there is a lack of a specific protocol to protect indigenous peoples in isolation from encounters with third parties that put their lives at risk (ILBo, 2024, p. 60).

The methodology used by institutions (CEJIS, CITRMD) that have conducted studies of PIA, in order to prove their existence, focuses on the collection of data through interviews and accounts of people who had encounters with them, or with some of them in the forest, as well as testimonies based on sightings and abductions of people. This information collected is complemented with talking maps, which are corroborated on site and cross-checked with satellite monitoring. To date, few studies have developed expeditions and visits to confirm the existence of PIA<sup>61</sup> (ILBo, 2024, p. 61).

### **Methodology of indigenous peoples and organizations**

Between 2008 and 2012, national parent organizations, such as the Confederation of Indigenous Peoples of Bolivia (CIDOB), in coordination with regional organizations, promoted and executed joint actions and legal measures aimed at protecting the territorial integrity and recognition of the rights of PIA; however, no methodology or work protocol was established for PIA. The CIDOB established alliances with civil society organizations in the country and in bordering countries such as Paraguay, with IA, to develop actions for increasing the visibility and defense of PIA. Despite this, national representative indigenous organizations are in an organic crisis and the problems faced by PIA are not a priority on their agenda (ILBo, 2024, p. 60).

In relation to the monitoring methodology of indigenous organizations, they have their own ways of maintaining contact with their PIA brothers and sisters; in addition, they jealously guard the information collected because they respect the right of their brothers and sisters to live in isolation (ILBo, 2024, p. 61).

In the case of the Ayoreo people, the Central Ayorea Nativa del Oriente Boliviano (CANOB) and the Ayoreo communities that live in contact with western society are aware of the existence of their brothers and sisters in isolation, as well as the areas where they roam. It is worth mentioning that CANOB and the Union of Ayoreo Natives of Paraguay (UNAP) have organized binational meetings to address the situation of the Ayoreo peoples living in isolation.<sup>62</sup>

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<sup>61</sup> In September 2009, the Pacahuara Expedition was carried out in order to systematize and verify information about the isolated people belonging to this people, which culminated in several testimonies that confirm the presumption of their existence (Camacho, 2010, p. 31). In the second half of 2023, the Indigenous Central of the Amazon Region of Bolivia (CIRABO), with the organization of the Chácobo people and their territorial monitors, and with the technical support of CEJIS, made a visit to the communities adjacent to the Chácobo PIA occupation area, conducting field work to establish their current situation in the Chácobo-Pacahuara territory. The diagnosis is in progress.

<sup>62</sup> Several meetings have taken place between the Ayoreo people of Bolivia and Paraguay, accompanied by Iniciativa Amocotodie. CEJIS participated in one of them. In October 2019, the V Bolivian-Paraguayan Binational Meeting called "Pueblo ayoreo sin fronteras"



There is a Resolving Vote of the First Binational Meeting of the Ayoreo People of Bolivia and Paraguay, which met between March 2 and 3, 2009, for the purpose of preparing a proposal for the protection of the territory of uncontacted Ayoreo brothers and sisters in the border territory between Bolivia and Paraguay, proposed by the Ayoreo organizations UNAP and CANOB. The resulting document protects the AyoreoPIA through the principle of no contact and recognizes their rights over their territory.

In the case of the Chácobo indigenous people, Rabi Ortiz participated in 1968, together with Instituto Lingüístico de Verano, in the process of contact and relocation of indigenous people in isolation, who were being threatened and displaced from their territories by logging companies.<sup>63</sup> Rabbi Ortiz recalls that they made trails and campsites to contact them, and also used tools to lure them. With such experience, he states: “they must be in another place and request a new territory for them, so that they can live and nobody bothers them” (ILBo, 2024, pp. 61-62).

In the case of the Toromona, from interviews made in the region, we can conclude that there is no methodology to confirm the existence or not of PIA. CITRMD does not yet have a specific method. However, it recognizes, with indications, the probability of a PIA or uncontacted people in areas outside the territory or in the headwaters of rivers. These indications are as follows: 1) stems or branches bent marking trails; 2) forest areas with clean undergrowth; 3) pan del indio (or chivo del monte); 4) pottery or sherds; 5) baskets made of lianas or vines such as cipo; 6) woven palm leaves (jatata), similar to objects or shapes; 7) abandoned fallow land or old crops; 8) cultivated palm trees or motacuses; 9) land turtle and river turtle shells; 10) remains of campfires; 11) fish remains; 12) footprints on stream banks; and 13) missing machetes in uninhabitable sites (ILBo, 2024, p. 62).

Therefore, CITRMD believes that any methodology should be built on the principle of no contact, as should regulations and training based on the categorization of these indications, as well as instructions on how to recognize

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took place in the Guidai Ichai community, in the municipality of Filadelfia (Paraguay), to discuss the problems of the Ayoreo in both countries and the effects of the fires in the Chaco region. One of the statements that emerged in this space refers to the critical situation of indigenous people in voluntary isolation. The document expresses the Ayoreo people’s concern about climate change and the development model that intensifies fires, affects health, food and access to water for isolated groups, as well as the forest where they live. Based on these reasons, they demanded that the States of Bolivia and Paraguay take measures to safeguard the lives of their isolated brothers and sisters; that the State of Paraguay create national regulations to protect the Ayoreo PIAV and that the Plurinational State of Bolivia implement Supreme Decree 1286 (Andrada, 2019 and CEJIS and ORÉ, 2019).

<sup>63</sup> The idea of the religious people of Instituto Lingüístico de Verano, who helped in the relocation of the people, was that the Chácobos —of the Pano family, like the Pacahuaras— would assimilate them in order to be saved “because, due to their small numbers, there was no longer any possibility of sustainable biological growth,” explains Bolivian anthropologist Wigberto Rivero. The Chácobos accepted the missionaries’ proposal and some accompanied them to the banks of the Negro River, in the department of Pando, to search for the Pacahuaras.



them. We must determine whether the indications that are found in similar conditions, and depending on the time of year, either in forests, pampas, beaches and riverbanks, to mention a few places, belong or not to a PIA. This effort should be aimed especially at community members and authorities, but with greater focus on families from communities working in areas bordering the PIA territory.

It is worth mentioning that in late 2016 and early 2017, CITRMD used PIA forms and then abandoned them. This procedure was carried out in conjunction with the Tacana Indigenous Socio-Environmental Monitoring activities agreed in the YPFB 2D seismic study (ILBo, 2024, p. 62). This occurred after an event of oil workers, who reported possible PIA outside Tacana territory. In seismic prospecting activities outside the Tacana II indigenous territory, YPFB-BGP reported meetings with peoples in isolation in 2016. The current government increased new areas for YPFB (“SUPREME DECREE 4667 INCREASES THE NUMBER OF RESERVED AREAS...”, N. D.) in 2022 (ILBo, 2024, p. 42).

It can be rescued as an emblematic action carried out by the Autonomous Indigenous Guarani Charagua Iyambae Government, which issued Law 033 dated May 9, 2019, which within the framework of its powers and supported by related regulations (Law 450 and DD. SS. 1286) enacts the law, among other purposes, to protect the transit areas of the Ayoreo indigenous people in voluntary isolation, creating a continuous natural corridor between the Chaco and Pantanal (ILBo, 2024, p. 64). This action is the result of the acknowledgment by the Autonomous Government of Charagua and the Resolving Vote issued by CANOB and UNAP in 2009, mentioned above.

## Brazil

Table 6. Summary of recognition methodologies, Brazil

Country	State Methodology	NGO methodology	Methodology of indigenous peoples and organizations
<u>Brazil</u>	There is an institutional practice, not formalized, under the principle of no contact, with direct methodology	Only EAPIL/ CIMI makes field expeditions to recognize the existence of PIA, prioritizing regions where FUNAI does not operate. Not systematized. Under the principle of no contact	Existing. Not systematized in writing. Under the principle of no contact

Source: author.

## State Methodology

Despite the fact that there are a wide range of practices for recognizing PII<sup>64</sup>, in Brazil, to date, there is no standardization of such practices, either by FUNAI internal regulations or by Brazilian legislation (ILBr, 2024, p. 6).

The methodology for the recognition of PIA by the Brazilian State, compiled from official documents and experts on the subject, is structured as follows.

## Conceiving

Between 1987 and 1988, the Brazilian State, through FUNAI, institutionalized the no-contact policy with the publication of three *Portería conjunta*, with the following objectives:

1. Establish a sector that works exclusively with the PIA policy (currently General Coordination of Isolated and Recently-Contacted Indigenous Peoples - CGIIRC / FUNAI).
2. Regulate the Isolated Indigenous Protection System (SPII).<sup>65</sup>
3. Establish working guidelines for working with PIA (ILBr, 2024, pp. 11-12).

## Principles and guidelines

The principles and guidelines established by FUNAI *Portería conjunta* 1900 dated July 6, 1987, as amended by FUNAI *Portería conjunta* 281 of 2000, which establishes guidelines for the protection of PIA (ILBr, 2024, p. 19), are:

1. Guarantee the full exercise of traditional freedoms and activities for isolated indigenous communities.
2. Verifying the existence of isolated indigenous people does not necessarily determine the obligation to contact them. Specific and differentiated protection systems will be created according to the situation of each case.
3. Promote systematic field actions aimed at geographically mapping and obtaining information on isolated indigenous people.

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<sup>64</sup> In Brazil, the State adopts the acronym Povos Indígenas Isolados (PII) (Isolated Indigenous Peoples).

<sup>65</sup> The Isolated Indigenous Protection System is the set of operational units and administrative actions aimed at the physical, patrimonial and cultural protection of indigenous people, as such. The different situations to which these groups are subjected have generated the need to create a systemic and flexible body that meets the need to locate and protect them [...]. It was also decided that the Isolated Indigenous Protection System (SPII) would be divided into three subsystems (mapping, surveillance and contact), each made up of one or more units. [...] The Mapping Subsystem, consisting of the Mapping Team and the Support Center, was created with the purpose of promoting systematic field actions aimed at geographically locating and obtaining information on isolated indigenous peoples, avoiding contact. (The act of contact should only occur when it can be proven that this isolated group was not capable of resisting the siege of farms, invasions of their territory, and when uncontrollable compulsions occurred; then the act of maintaining contact would be an essential measure of protection). Thus, Brazilian indigenist policy began to promote systematic field actions to gather information on the existence of PIA, their geographic location and mapping (SPII/PP 1901/87).



4. The lands inhabited by isolated indigenous peoples will be guaranteed, secured and protected in their physical boundaries, natural wealth, fauna, flora and springs.
5. The health of isolated indigenous communities, considered a priority, will be given special attention due to its specificity.
6. The culture of isolated indigenous communities, in its various manifestations, shall be protected and preserved.
7. Prohibit any and all economic and commercial activities within the area inhabited by isolated indigenous peoples.
8. Determine that the formulation of the specific policy for isolated indigenous peoples and its enforcement, regardless of its source of funds, will be developed and regulated by FUNAI.
9. The coordination of isolated indigenous peoples will be in charge of promoting the standardization and detailing of this *Portería conjunta*.

### **Structure**

Currently, FUNAI, a government body attached to the recently created Ministry of Indigenous Peoples (MPI), is responsible for the implementation of Brazilian indigenous policy, including the creation of work groups and the opening of territorial definition processes (demarcation of indigenous lands) for PIA, in addition to actions for the protection, mapping and research of the presence of these peoples in Brazilian territory. Therefore, FUNAI is responsible for, through the General Coordination of Isolated and Recently-Contacted Indigenous Peoples (CGIIRC), attached to the Department of Territorial Protection (DPT) and through the Ethno-Environmental Protection Fronts (FPE),<sup>66</sup> decentralized units specialized in the protection of PIIRC, guaranteeing isolated peoples the full exercise of their freedom and traditional activities without the need to contact them (Decree 7778 of 2012, Article 2, subparagraph II, subsection d, as replaced by Decree 11226 dated July 10, 2022) (ILBr, 2024, p. 5).

There are eleven coordinators of Ethno-Environmental Protection Fronts (FPE) operating throughout the Brazilian Amazon and Cerrado territories. These decentralized FUNAI units carry out territorial protection, inspection and surveillance actions, as well as the prevention of illegal activities, access control, monitoring of health actions, among other activities, such as research and mapping of PIA, monitoring of recently-contacted indigenous peoples (PICI) and other functions necessary to enforce and implement the guidelines of the Isolated Indigenous Protection System (SPII) (REF RESOL 44/CNDH). Acting with a finalist approach, they are the only FUNAI units that are currently also located within the Indigenous Lands, in Ethno-Environmental

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<sup>66</sup> For more information, see “Pueblos aislados”, <https://www.gov.br/funai/pt-br/atuacao/povos-indigenas/povos-indigenas-isolados-e-de-recente-contato-2/povos-isolados-1>.

Protection Bases (BAPE),<sup>67</sup> strategically installed in places with the presence of isolated and recently-contacted indigenous groups (ILBr, 2024, p. 13).

## **Methodology**

The methodology, not yet formally institutionalized, consists of a flow of procedures involving documentary research and systematization, collection and assessment of third-party reports, field expeditions to verify traces, overflights and satellite image analysis. The aim of these stages of work is to build up a collection of geo-referenced information and data on the dynamics of use and occupation, as well as data on the socio-cultural characteristics of these peoples, with the main objective of carrying out activities of territorial protection and definition.

Vaz (2011, p. 27) describes the process of gathering information through field expeditions to identify physical, linguistic, cultural and territorial aspects of isolated peoples. He points out that FPEs carry out field expeditions to identify traces and knowledge of indigenous migration areas, also raising ethno-historical and territorial protection issues. He emphasizes that mapping work is slow, requiring at least three years per record, and requires a specialized team to identify traces of indigenous people in the forest, guaranteeing the safety of both the team and the isolated people. He also highlights the importance of recording information, the use of geo-technologies to facilitate data collection and the mapping of the movements of indigenous peoples between villages, hunting and gathering sites and material culture, in order to understand their seasonal dynamics and territorial occupation. Likewise, he suggests that there are essential steps for the proper performance of the work of mapping and monitoring isolated indigenous groups, which should be prioritized according to the urgency and availability of resources and the principle of no contact (ILBr, 2024, p. 14).

Regarding the contacts established by FUNAI after 1988 (date on which the no-contact was defined as a prerogative of the self-determination of PIA, in Brazil), the report *Situation of human rights of the indigenous and tribal peoples of the Pan-Amazon region* (2019), in chapter 4, paragraphs 379 to 380, states:

In relation to Brazil, the IACHR received information according to which, as of the end of 1980, FUNAI had adopted a protection strategy that involved “the lack of compulsory contact with indigenous peoples in isolation”,<sup>68</sup> in a context where a debate had been generat-

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<sup>67</sup> Currently, there are twenty-eight Ethno-Environmental Protection Bases (BAPE) in operation, which mainly have the function of controlling access and serving as an operational support point for various activities, such as monitoring, mapping and inspection. Some bases, such as Bape Cuminapanema, in the Zo'é Indigenous Land, and Bape Omerê, in the Omerê Indigenous Land, are also used for the articulation of recent contact policies.

<sup>68</sup> Article 2.d of FUNAI's bylaws recognizes as a principle the guarantee of PIA: “it guarantees the exercise of freedom and traditional activities to isolated indigenous peoples,

ed by indigenous leaders and indigenist entities. This position would have been due to the highly publicized national and international complaints of the extermination of entire indigenous peoples affected by epidemics or massacres. Previously, there had been a policy of forced contact and removal of indigenous peoples in isolation of what was understood to be the “path of economic expansion” projected for the Amazon, with the construction of infrastructure works, especially roads. Despite the adoption of this policy based on the principle of no contact, the IACHR received information indicating that the State had established permanent contact with Korubo groups in the Yavari Valley since 1996 [2014, 2015, and 2019]<sup>69</sup> and with the “Xinane isolates”, in Acre, on the border with Peru in 2014, based on government assessments, without the participation of indigenous and civil society organizations (CiMI, 2018, p. 6).

In addition, according to the information provided, PIA using cross-border territories between Brazil and Peru are permanently exposed to violence from loggers and drug traffickers. An example of this problem would be the contact with “Xinane isolates” in Brazil. In 2014, a group known as the “Xinane isolates”, in the upper Envira river region (Brazilian side of the border), approached the Ashaninka people in Peruvian territory, fleeing acts of violence practiced against them, possibly by loggers. From this moment on, permanent contact was established between this group and the Ethno-Environmental Protection Base of FUNAI. In 2017, members of this group, made up of 34 people, allegedly left the FUNAI Base by going down the Envira river to the cities of Feijó and Rio Branco. The situation of this indigenous people in isolation is deemed to reveal the traumatic experience of the approach with the Ashaninka people and, subsequently, with FUNAI (IACHR AND OAS, 2019, P. 6).

### **Records and work phases**

In 2017, FUNAI compiled a list of 114 PIA records in Brazil. Of these records, 28 are officially confirmed by the state foundation. The rest of the records are under study, assessment and analysis and, therefore, lack documentation research and expeditions to prove their existence (ILBr, 2024, p. 5).

The “record” is the basic unit in the process of systematizing data on institutional recognition of the existence of PIA. In general terms, it is linked to the geographic region<sup>70</sup> where there is a possible or proven presence of

without the need to make contact with them”.

<sup>69</sup> For more information, see “Korubo,”<https://pib.socioambiental.org/pt/Povo:Korubo> .

<sup>70</sup> Unlike other countries, Brazil adopts, for purposes of registering a people, or segment thereof, the geographic location and not the possible ethnic group to which the people in question belongs. In other countries, (possible) ethnicity is adopted as the basis for registering a specific PIA. Therefore, in Brazil, the same people (ethnic group) or segment thereof may have several records, for example, those attributed to the Mascho Piro (in the border region with Peru), since three records are attributed to the same ethnic group. As Torres



indigenous peoples or communities in isolation. Each record is assigned an identification number, which becomes part of the FUNAI/CGIIRC database, with all PIA records in Brazilian territory. FUNAI adopts three main classifications, according to record status: information, reference under study and confirmed reference.

### **Classification by record status**

- > **Information:** any and all reports or news provided to the CGIIRC on the possible existence of an indigenous group or people in isolation in a given region of the national territory. After the first screenings and technical evaluations, which aim to identify the consistency of these reports, they become part of the database as a “record”, and the CGIIRC and the fronts then take charge of assessing these reports or news into documentation or field. If the subsequent assessment verifies the existence of other related data and reports, a collection of data is created that can justify the upgrading of this information to reference under study.
- > **Reference under study:** set of data on an isolated indigenous group duly assessed by the CGIIRC. A dataset is a collection of information that indicates the presence of isolated peoples in a given region. This collection may consist of administrative documents, bibliographic and cartographic information, reports (documented), among others. Only fieldwork carried out by a CGIIRC technical team can prove or disprove, through mapping expeditions, the existence of an isolated indigenous group in a given region. If the team verifies this existence, this reference is classified as a confirmed reference.
- > **Confirmed reference:** this is a reference which existence has been administratively proven. The record is considered a confirmed reference when the fieldwork of a specialized team of the CGIIRC/FPE demonstrates *in loco* the existence of an indigenous people or group in isolation and their geographical location. Proof of their existence must be recorded in field reports in order to substantiate protection actions, including with regard to land regularization in their territories.

### **Classification by work phase**

**Phase 1: Assessment.** It is the initial phase for the characterization of a PIA record. This assessment may be:

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(2022) states: “It is necessary to consider that the number of existing villages will depend on the way they are identified in each country. For example, the Brazilian Government distinctly recognizes groups such as the Mashko of the Laco river, the Mashko of the Chandless river and the Mashko of the Envira river, while in Peru, the Mashco Piro are considered part of a single people, regardless of their geographic reference” (s. p.).



- > **Documentation assessment:** is the stage of research and systematization of data on the presence of PIA contained in written, audiovisual, cartographic or other supporting information.
- > **Field assessment:** one or more expeditions to collect first-hand data on the presence of indigenous people in isolation, through interviews with informants or research in regional documentation collections. The purpose of the field assessment is to diagnose the logistical possibilities to carry out possible recognition expeditions in the region.

**Phase 2: Mapping.** Consists of collecting information through field expeditions that aim to identify, in addition to the geographic position and territorial dynamics, any and all information and traces that contribute to the protection and characterization of the record. The mapping phase also includes the characterization of the degree of vulnerability of this record, identifying possible threats.

The following points should be taken into account in this phase:

- > **Geographic location (presence confirmation):** means field actions aimed at demonstrating the existence of an isolated indigenous group in a given region. The main objective is to collect, record and systematize evidence that will allow administrative confirmation of the existence of this group, in accordance with the field methodology used by FUNAI. This step can be carried out through field expeditions or overflights.
- > **Territorial and socio-cultural mapping (presence sizing):** means the execution of field expeditions, or overflights, for territorial sizing and understanding of the processes of use and occupation, demographic and cultural aspects, among others.

**Phase 3: Monitoring.** Field expeditions or overflights that aim to periodically update the understanding of the occupation dynamics and socio-cultural characteristics of isolated peoples, thus subsidizing the constant adaptation of protection strategies (ILBr, 2024, pp. 15-16).

### **Recognition**

Martins, coordinator of the Coordination of the Policy for the Protection and Mapping of Isolated Indigenous Peoples (COPLII) explains, in an interview with the ILBr, 2024, how the way to prove the existence of PIA works in practice: first, field units and FPEs carry out mapping actions, which may include ground expeditions, overflights and, more recently, remote sensing. The fronts submit the expedition reports to the CGIIRC for evaluation, discussion and validation of information. Ideally, a council was designed to involve experts and sectors of civil society in the course of this process. Once the existence is confirmed, the official table is updated and land regularization and protection procedures are initiated. As for updating the information in the 114 records already in the CGIIRC database, Martins explains that it is a slow process, as it requires a long technical process to compile the basis and justification for each of the records, indicating changes, adaptations, creation of new ones, cleaning up

all possible inconsistencies and circulating the result for the assessment of each of the eleven active FPEs. With the shortage of servers and the incessant urgencies of daily work, priority is given to tracking confirmed records and the most conspicuous references, in an advanced mapping process (ILBr, 2024, pp. 14-15).

### **Organized civil society (NGO)**

#### **Civil Society Organizations - NGO:**

For the Brazilian State, the definition of policies for the protection of PIIRC and their implementation is an “exclusive” attribution of the State, through FUNAI (guideline 8).

However, in view of the lack of human and financial resources provided for the protection of PIIRC, the CGIIRC/FUNAI began to establish terms of cooperation with civil society organizations to respond to the urgent demands of fieldwork.

Through these partnerships, it was possible for civil society to participate in joint work (under the coordination of the CGIIRC/FUNAI), with contributions of human and financial resources, infrastructure and, above all, technical studies for a better understanding of the entire matter.

### **Indigenous peoples and organizations**

Indigenous peoples and organizations have always established “relationships” with the IIP through “protection, coexistence and contact protocols” developed ancestrally and transmitted orally from generation to generation. They are not systematized in writing.

The First International Meeting on Policies for the Protection of Isolated and Recently-Contacted Indigenous Peoples, which was held in Brasilia, from June 19 to June 22, 2017,<sup>71</sup> was promoted by the Centro de Trabalho Indigenista (CTI), in partnership with the Coordination of Indigenous Organizations of the Brazilian Amazon (COIAB) and APIB. As a result of this event, the “Brasilia Charter: Declaration in Defense of Indigenous Peoples in Isolation and Initial Contact of the Amazon Basin and Gran Chaco” was released, which contains a series of recommendations, among them:

Recognition by States of the ways in which each people identifies the presence of isolated peoples, as well as recognition and respect by States in relation to indigenous protocols and ways of handling situations involving isolated peoples, always respecting the principles of self-determination and no contact (p. 4).

In this First International Meeting on Policies for the Protection of Isolated and Recently-Contacted Indigenous Peoples, at the round table in Northern

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<sup>71</sup> For more information, see “Perspectives on Policies for the Protection of Isolated and Recently-Contacted Indigenous Peoples,” <https://trabalhoindigenista.org.br/4202-2/>.





Pará , the presence of PIA in the region, the kinship relations they have with these groups and their own protocols in possible situations of encounters and contacts were discussed. “They took us out of our region. But many people stayed and those who stayed, who didn’t want to join the other peoples, are still there.... Therefore, we consider these peoples as our relatives,” explains Juventino Katxuyana, of the Kaxuyana Tunayana and Kahyana Indigenous Association (Aikatuk). The indigenous leader of João do Vale Katxuyana told of contact with an isolated group called Inkarĩni in 1970 and 1971. According to him, there were eight people in two canoes, paddling for more than a month.

It was a very long trip, the distance was long. It took forty-two days of paddling to get there. We would ask the “Quilombolas” [Afro-descendants] for information, and they would show us the places, the streams. We use the GPS of our mind. The GPS was the sun and the stars.

According to João do Vale’s account, there was an old man among them who knew how to behave in a contact situation, and he guided them in that endeavor. At that time, the group they found consisted of only six seniors. In the morning, the old man woke up and said, “My grandchildren, cousins, when we meet our relatives whom we have never seen, we have to sing, shout like this. They will know that we are not enemies. The women were in front and he was behind, adorned with bracelets and a palm headdress,” described João do Vale.

Ângela Katxuyana, from COIAB, problematized the concept of isolated indigenous people and the role of the State:

We are talking about our relatives, our blood. When he talks about ingarũne, he refers to his uncles, his parents and my grandparents, ingarũne too. When we talk about isolated people, they did not isolate themselves because they no longer wanted to be near us. This happened because the State took us out of there. To speak of people isolated in North Calha is to speak of our withdrawal from there, of the violence involved.

During the encounter, Ângela Katxuyana defended the effective participation of indigenous communities and organizations in public policies for the protection of PIA, not only as translators, members of expeditions and other field activities, but also in decision-making and policy formulation processes. According to her, indigenous people have their own protocols for the relationship with these peoples, and it is necessary to broaden the dialogue with FUNAI and merge the official protocols with those used by indigenous peoples (Octavio *et al.*, 2020, p. 384).

## **Indigenous initiatives for the protection of Indigenous Peoples in Isolation. Brazil**

Some autonomous indigenous initiatives promote the protection of PIA with whom they share or who are on the boundaries of their territories. The following are highlighted:

Kaxinawa Indigenous Land of the Humaitá River and its surroundings: developed by the Huni Kuin (also known as Kaxinawá) with the support of FUNAI and the NGO Comissão Pró-Índigenas do Acre (CPI Acre), involving, among other actions, the execution of internal agreements not to use areas in the headwaters of the Humaitá river, where there are indigenous peoples in isolation; it has also worked on awareness-raising meetings with riverside communities and “compensation” for looting by the isolated groups. In an attempt to reduce the pressure of “looting” in their villages, one of the measures adopted was the construction of a “gift tapiri<sup>72</sup>” at a strategic point, where objects such as machetes, pots and elements of the Huni Kuin material culture are placed. In the area surrounding the Tapiri, a field was created for the isolated people with cassava, plantain, corn and watermelon. The idea of the Huni Kuin is to try to satisfy the exchange needs that PIA seek in their wanderings, to signal that their intention and presence is peaceful, while protecting their communities against the looting practiced by them.

Mamoadate Indigenous Land. Initiative of the Machineri and Jaminawa indigenous peoples, declared in the Territorial and Environmental Management Plan (PGTA) of the Mamoadate Indigenous Land. According to Lucas Brasil Machineri, the Manchineri and Jaminawa peoples have decided to reserve part of their traditional territory for the isolated people, the Yine Hosha Hajene, a “distrustful people” (Laco River Mashco Isolate Record), as loggers are cornering these groups. The area was divided so that they can hunt, fish and cultivate their fields. They do not walk in this area to respect and avoid conflicts with isolated relatives in that region, supporting their protection and that of the recently contacted indigenous people (BRAGA *et al.*, 2022). Brasil Manchineri reports the presence of isolated groups near the village of Extrema, on the Laco river, in a region bordering Peru. They have been monitoring the presence of the Mashco for years, and have also established internal agreements for the non-use of TI areas, used seasonally by “distrustful peoples”, among other strategies and actions. Otávio Brasil Manchineri reports changes in the calendar of the Mashco’s passage through the Mamoadate Indigenous Land: “every year they pass through on a different date, each time closer to the community”. For him, this change in pattern is possibly due to pressure from loggers and drug traffickers on the Peruvian side of the border.

Araribóia Indigenous Land. Guardians of the Araribóia Indigenous Land Forest (Limulja and Oliveira, 2022). It is a self-defense, surveillance and territorial security initiative against illegal logging and deforestation. It is about the protection of PIA, developed by the Awá Guajá (Gavião, Ka’apor, Krikati,

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72 Hut built to temporarily house indigenous people, rubber tappers and farmers.



Tembé and Tenetehara), in the context of the so-called Gurupi Mosaic,<sup>73</sup> made up of a Conservation Unit, the Gurupi Biological Reserve and six indigenous lands: Alto Turiaçu, Awá, Caru, Araribóia, Rio Pindaré, located in Maranhão, and Alto Rio Guamá, in Pará, which form a socio-environmental corridor. The Guardians, as an indigenous initiative, was created in 2000 in a meeting of the Council of Chiefs and Leaders of the Araribóia Indigenous Land (COCALITIA), with the objective of carrying out their own actions of monitoring and inspection of the territory. They then included in their strategies the protection of PIA. It is a region marked by extreme violence. In 2018, the FUNAI base in Zé Doca was set on fire due to conflicts between loggers, cattle ranchers and indigenous people (“Polícia procura por responsáveis do incêndio em base da Funai no MA”, 2018). According to violence reports from the Conselho Indigenista Missionário, between the years 2000 and 2019, 48 Guajajara Indigenous Persons were murdered.

Araribóia Indigenous Land (Santana and Miotto, 2019). A survey of the indigenous people themselves reports sixty murders since the 1990s (Agencia Publica, 2019).

The isolated Awá are relatives, but they are Awá, not Guajajara. The [indigenous] guardians and firefighters who watch over the territory believe that there are three groups of isolated peoples, different from each other in height and appearance. The firefighters saw them sitting as if they were in a meeting, and they were all different. The Awá of the long lagoon are from there. Now, those circulating think they are from another people, but no one knows for sure (Sulune Guajajara, interview January 2024) (ILBr, 2024).

Caru Indigenous Land. Warriors of the Forest of TI Caru (Limulja and Oliveira). The Caru Indigenous Land, made up of sixteen villages, is located between three municipalities: Alto Alegre do Pindaré, Bom Jardim and São João do Caru. Shared by the Guajajara with the Awá Guajá, considered to be recently-contacted and isolated people (Record 39. Igarapés Presídio and Juriti), it is a region historically invaded by loggers, hunters, fishermen, cattle ranchers and small-scale traffickers who plant marijuana. Since 2014, women and men have joined together to conduct activities aimed at protecting the territory, with the support of the Wirazu Association.

A differential of the Warriors' work is that they prioritized the work of raising awareness among the settlers of the villages near the Indigenous Land, who, according to Cristiane Viana Guajajara, invade the indigenous territory, since public power is totally absent in the region. Thus, they add a socio-educational nature to the territorial protection mechanism. The

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<sup>73</sup> The Mosaic of Conservation Units is a protected area management model that seeks the participation, integration and involvement of the managers of the units and the local population in their management, in order to reconcile the presence of biodiversity, the valuation of social diversity and sustainable development in a regional context.

initiative is supported by a team of indigenous communicators from the Caru Indigenous Land, who record the actions through photographs and filming and whose purpose is to produce a documentary that highlights the role of women in the management of the project.

Through environmental awareness activities, the warriors manage to mitigate local threats from nearby residents, but the big danger is that usually the biggest invaders of the territory are important and powerful people, such as politicians and businessmen, who have enough capital to carry out large logging schemes, such as hiring a team to cut and transport timber, buying equipment, trucks, boats, etc.

Monitoring Team of the Union of Indigenous Peoples of Vale do Javari (UNIVAJA). In the absence of public power, on the one hand, and the need to protect their territory, on the other, the representative bodies of the indigenous peoples created, in the second half of 2021, the Monitoring Team of the Union of Indigenous Peoples of Vale do Javari (EVU),<sup>74</sup> a long-standing desire of the leaders of the Vale do Javari Indigenous Land in the triple border of Peru, Colombia and Brazil, whose main function is the production of qualified information on the invasions of Indigenous Land through monitoring and surveillance actions, as well as the formulation of qualified complaints on the violations occurring on indigenous land –to FUNAI, the Federal Public Ministry and the Federal Police– so that they can carry out the territorial inspection on the Vale do Javari Indigenous Land.<sup>75</sup>

In this context of monitoring and surveillance of the Vale do Javari Indigenous Land, the monitoring and surveillance actions are aimed at raising the threats to which the sixteen records of indigenous peoples in isolation in the valley (nine of these confirmed) are exposed.

### **Articulations of the indigenous movement and organized civil society**

Faced with the absolute impossibility of dialogue and the planned omission of the previous extreme right-wing government<sup>76</sup> in the protection of PIA, one of the strategies used by the indigenous movement and civil society organizations was to resort to the Judiciary.

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<sup>74</sup> It should be noted that the creation of EVU is not an attempt to replace the constitutional duty of oversight of the Public Power, but a way to act in the assessment and processing of information on invasions of indigenous territory for subsequent referral to the competent authorities, given the situation of structural omission in the protection and territorial inspection by these authorities.

<sup>75</sup> Arns Commission; Organizers: Manoela Carneiro da Cunha and Juliana Vieira dos Santos. Report on severe human rights violations in Vale do Javari. Circumstances of the executions of Bruno Pereira and Dom Phillips; Violation of indigenous rights; Recommendations that cannot be postponed. 2022. / Marubo, Beto; Albertoni, Lucas; Oliveira, Juliana. Univaja in the fight against the pandemic. Indigenous Peoples in Brazil-ISA-2017-2022.

<sup>76</sup> Refers to the government of then President Bolsonaro (January 1, 2019 to December 31, 2022).



In July 2020, the Brazilian indigenous movement, led by APIB, in alliance with allied political parties, sued the Supreme Court to order the Government to adopt immediate measures to contain the advance of the COVID-19 pandemic among Brazil's indigenous peoples. Through the Claim of Non-Compliance with a Fundamental Precept (ADPF) 709, the Precautionary Measure was instituted, which partially guarantees the protection of the right to health of PIIRC.

In response to the systematic omission of the Federal Government under the Bolsonaro administration, which was openly anti-indigenous, the lawsuit requested the intervention of the Judiciary to implement measures such as the installation of sanitary barriers in more than thirty indigenous lands where PIIRC live and the removal of invaders in Indigenous Lands shared with these peoples. In addition, it determined the creation of a Situation Room for the management of actions and the preparation of Contingency Plans for Situations of Contact with Isolated Indigenous Peoples, in coordination between the Special Secretariat for Indigenous Health (SESAI) and FUNAI.

Also noteworthy is the ADPF 991 of APIB, which requested the Supreme Federal Court (STF) to take measures to prevent and repair severe violations of fundamental precepts of the Constitution related to failures and omissions in the protection and guarantee of the rights of PIIRC, advising of the actual risk of genocide of these peoples due to the opening of their lands to invaders and the dismantling of state agencies responsible for their protection. The ADPF was granted in full in November 2022, in a preliminary decision, by the minister of the Federal Supreme Court, Edson Fachin, and confirmed by the plenary session of the STF in August 2023, determining, among other aspects, that:

1. The Federal Government shall take all necessary measures to ensure the full protection of the territories with PIIRC presence, ensuring that the "restriction of use" *Porteria conjunta* are always renewed before their term expires, until the final conclusion of the demarcation process.
2. The Federal Government shall submit, within sixty days, an action plan for the regularization and protection of indigenous lands with PIIRC presence, demonstrating the existence of the necessary resources to carry out such tasks.
3. The authorities shall recognize the isolated way of life as a declaration of self-determination of PIA, and the act of isolation is considered sufficient for the purposes of consultation, in accordance with ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples.
4. The Federal Government shall, within sixty days, issue "Restriction of Use" *Porteria conjunta* for PIA references that are outside or partially outside indigenous lands, as well as protection plans for such areas.
5. The Federal Government and FUNAI shall uphold Restriction of Use *Porteria conjunta* 1040, dated October 16, 2015, of the Tanaru indigenous group, until the end of the judgment on the merits of this argument.

Between 2021 and 2023, COIAB carried out the "Isolated or Decimated" campaign, in alliance with the Observatory for the Human Rights of Isolated and

Recently-Contacted Indigenous Peoples (OPI) and other organized civil society partners, such as the Socio-Environmental Institute (ISA), Survival International, Operação Amazônica Nativa (Opan) and Una Gota en el Océano.<sup>77</sup> The main objective was to raise public awareness in order to put pressure on FUNAI to renew the *Porteria conjunta* restricting the use of the Indigenous Lands Jacaréuba-Katawixi (State of Amazonas, Brazil), Piripkura (State of Mato Grosso, Brazil), Pirititi (State of Roraima, Brazil) and Ituna-Itatá (Pará), as they were under threat of de-protection. According to the campaign report, actions of articulation and production of participation were promoted to alert society in general about the situation of PIA. In the press, the issue of peoples in isolation gained prominence: there were more than seventy insertions in the national press and more than one hundred in the international press.

In November 2023, COIAB also reported to the IACHR the situation in the Arariboia Indigenous Land, in Maranhão, which has historically suffered the action of invaders, putting the isolated Awá Guajá people at serious risk (ILBr, 2024, p. 91).

### **Partnerships, ventures and collaborations between NGOs and States**<sup>78</sup>

In order to respond to the complexity of the actions contemplated in the Isolated Indigenous Protection System (SPII) and the broad scope of action of FPEs, in the late 1990s and early 2000s, FUNAI, through the CGII and later CGIIRC, established partnerships with several NGOs to develop actions for the protection of indigenous peoples in isolation. Three projects were implemented with the NGO Centro de Trabalho Indigenista (CTI): 1) “Ethno-environmental Protection of Vale do Javari” (1999–2002), which was funded by the European Commission; 2) “Ethno-environmental protection of isolated indigenous peoples in the Brazilian Amazon”, which received funding from the Moore Foundation and covered the states of Amazonas, Acre and Rondônia; funded by the United States Agency for International Development (USAID), and also included Mato Grosso, and 3) “Ethno-environmental protection of isolated and recently-contacted indigenous peoples in the Brazilian Amazon”, which was supported by the Amazon Fund. In 2008, the CGII also partnered with Opan to protect isolated indigenous people in the Purús river basin in the southern Amazon with funding from World Vision/USAID. These projects allowed for dialogue between the state indigenist agency and civil society organizations and indigenous peoples, with the aim of partnering to improve actions for the protection of PIACI.

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<sup>77</sup> The campaign was also supported by APIB, the Socio-Environmental Institute (ISA), Survival International and Una Gota en el Océano.

<sup>78</sup> This section is an edition of excerpts from Chapter 16, originally entitled “Parcerias estabelecidas para proteção aos índios isolados e de recente contato” of the book *Povos indígenas isolados em mato grosso: análise das pressões e ameaças sobre as terras indígenas onde há registro da presença de povos indígenas isolados e de recente contato no estado de Mato Grosso*, by Elias Bigio (2021), published by Operação Amazônica Nativa (Opan).



Throughout more than thirty years of policies to protect indigenous peoples in isolation, FUNAI has also established specific agreements in the granting of licenses to companies. In the early 1990s, FUNAI entered into formal agreements with Centrais Elétricas do Norte do Brasil S. A. (Eletronorte)<sup>79</sup> to mitigate the impacts caused to the Avá-Canoeiro indigenous people living in the region where the Serra da Mesa Hydroelectric Power Plant was built, in the state of Goiás.

In the 2000s, agreements were signed with the construction companies of the Jirau and Santo Antônio power plants to mitigate the impacts on the indigenous peoples living in Rondônia and the southern Amazon, within the scope of the CGIIRC, and to carry out actions to locate isolated indigenous people on the Jacareúba/Katauchi Indigenous Land (restriction of use) and in the CGIIRC Record 12 of isolated indigenous people, located in the Amazon, on the Karitiana Indigenous Land and in the Bom Futuro National Forest, and in the CGIIRC Record 45 of Isolated Indigenous People, located in Rondônia.

Agreements were also established with the construction company of the Belo Monte Hydroelectric Power Plant, within the scope of the CGIIRC, to carry out actions to locate and inspect the indigenous people in isolation living in the Ituna/Itatá Indigenous Land and the Arara people, recent contacts of the Cachoeira Seca Indigenous Land.

In the electricity sector, a cooperation agreement was signed with the Teles Pires Hydroelectric Power Plant, already mentioned, for the development of actions to mitigate the location and implementation of protection actions for PIA living in the Apiaká do Pontal e Isolados Indigenous Lands and in the indigenous territory of the CGIIRC Record 73 of Isolated Indigenous Peoples, located in the region of Serra do Cachimbo, in the state of Pará. The objective of these partnerships, according to the CGIIRC, is to carry out:

The mapping of isolated indigenous peoples and the development of a set of activities, through field expeditions, aimed at identifying, in addition to the geographic position (areas of occupation), any and all information and traces that contribute to the protection and characterization of the ethnic group (physical, linguistic, cultural, cosmological, ethnohistorical aspects), as well as the possible dangers to which isolated peoples are exposed when faced with projects (FUNAI, 2010b).

In the 2000s, FUNAI also established an agreement with the National Department of Transportation Infrastructure (DNIT) and the companies responsible for paving road BR-429 in Rondônia, to mitigate the impacts caused to indigenous peoples in isolation living in the Uru-Eu-Wau-Wau and Massaco Indigenous Lands (ILBr, 2024, p. 94).

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<sup>79</sup> FUNAI also established an agreement with Eletronorte to develop mitigation actions due to the impacts caused by the construction of the Balbina Hydroelectric Power Plant, developed by the Waimiri-Atroari Program (PWA) (Leão, 2014, p. 29).

# Colombia

Table 7. Summary of recognition methodologies, Colombia

Country	State Methodology	NGO methodology	Methodology of indigenous peoples and organizations
Colombia	In process. Under the principle of no contact	Existing and systematized. Under the principle of no contact	Existing, but not systematized in writing. Under the principle of no contact

Source: author.

## State Methodology

In Colombia, as of the date of completion of this report, there is no officially adopted methodology by the State to confirm the existence of PIA. However, we have information that the Ministry of the Interior, in association with indigenous and civil society organizations, is in the process of drafting the “Protocol for the Study and Official Registration of Indigenous Peoples in Isolation or in their Natural State in Colombia”, with the objective of methodologically guiding the registration process of indigenous peoples in isolation (PIA/PIEN), in its different modalities. This protocol details the methodological path to conduct the research for the official studies of PIA/PIEN, in order to confirm their presence, identify their territoriality and proceed with their registration, if so warranted, in any of the three modalities set forth in the regulations, avoiding as much as possible any type of bias.

As established by Decree 1232 of 2018, the registration of a PIA is the administrative act of the Ministry of the Interior, which recognizes the existence of a specific PIA in Colombia. As indicated in the regulatory framework, the record will compile the information of the official study and will be carried out progressively in the following modalities, according to the state of progress of the official study.

However, as has already been noted, the parameters of the Official Study have not been established, which represents a barrier to progress with the records. However, given the pressure that was exerted by the Public Ministry, the Ministry of the Interior moved forward with the issuance of two administrative acts –Resolutions 041 and 042 dated May 11, 2020– that register the Yuri and Passé peoples, respectively, establishing that research must be conducted (ILCo, 2024, p. 40).

## NGO methodology

The first steps to develop a methodology for locating PIA in Colombia were taken by political scientist Roberto Franco García, who “put together pieces





of oral tradition, statements by various researchers and scientists that gave him the signs that were published in his book, *Cariba Malo*" (ILCo, 2024, p. 17).

The methodology designed by the Puerto Rastrojo Foundation and ACT (Mejía, 2014) included the input of Franco (2012), consisting of interviews of inhabitants of the region who gave their testimony about the presence or signs of PIA in the area, based on the sighting of indigenous people, malocas, footprints, sounds, huts, roads, hunting, traces, settlements, material culture, fruits, smoke and charcoal. These testimonies were obtained through trips to neighboring rivers and villages in the area of interest. Thus, information was collected on terrain features, site names, places of historical or geographical interest, fauna and flora, and how people perceive their surroundings (ILCo, 2024, p. 32).

By cross-referencing information on the location of PIA signs obtained from interviews with cartographic, physical-biotic and ecosystem layers, a map was generated to determine which watersheds have more interview points and which of these points are directly observed and, therefore, have a higher probability of occurrence and veracity. Then, the vegetation map and the elevation map were prepared with the Digital Elevation Model, which shows the mountain ranges and main sub-basins. The different vegetation types such as terra firme forest, flooded forest, natural stubble, savannas and cananguchales were identified (Sinchi, 2018).

Satellite images from different years, downloaded from the U.S. Geological Survey, were then analyzed for signs of possible settlements (open, with potential houses or malocas and crops) (ILCo, 2024, p. 32).

Two types of malocas have been identified in high-resolution images and overflights: medium or open malocas and rectangular malocas with rounded ends; the area of these malocas varies between 71 m<sup>2</sup> and 143 m<sup>2</sup> (ILCo, 2024, p. 34; Mejía, 2014).

- \* Survey and analysis of ethnographic studies, ethnohistorical studies, travelers' documents, newspaper articles, academic studies, legal documentation, legislation and jurisprudence, etc.
- \* Field interviews to collect evidence of PIA.
- \* Trips and expeditions to neighboring rivers and villages in the area of interest.
- \* Gathering information on terrain features, site names, places of historical or geographical interest, fauna and flora, and how people perceive their surroundings, etc.
- \* Cross-referencing of location information of PIA signs to generate maps.
- \* Analysis of satellite images from different years and overflights to find signs of possible settlements with potential houses or malocas and crops of PIA.

### **Methodology of indigenous peoples and organizations**

Different Amazonian indigenous communities have acknowledged the presence of PIA/PIEN in their territories through their own knowledge systems and research. This type of research is part of traditional indigenous knowledge

systems, which are characterized by their integral and heuristic nature, and by implementing forms of knowledge beyond the methodological actions of observation, experimentation or systematization processes that underlie scientific research. Indigenous research is built or proposed by indigenous societies based on their own questions and interests. In the case of research on PIA, in addition to deepening their knowledge, it allows them to broaden their understanding of themselves and society in general, thus contributing to the process of strengthening their autonomy, their exercise of self-government, territorial management and the development of their own policies (ILCo, 2024, p. 23).

The shamans accompany the coordination spaces and provide spiritual protection, and their advice, prescriptions and opinions are fundamental for the development of activities. In this system, it is essential to request permission from the owners of nature through rites performed by wise men, who, through thought, offer elements such as mambe, snuff, breo, incense and carayurú, so that there is harmony between the invisible beings and the indigenous people (Silva, 2019).

The methodologies for the recognition of PIA/PIEN by indigenous peoples and organizations are not yet systematized in writing. However, they defend, based on indigenous traditional knowledge, the no-contact perspective and "indirect action" procedures (ILCo, 2024, p. 17).

Indigenous organizations and agencies in Colombia achieved the development of a protection regulation for PIA (Decree 2333 of 2014, Victims' Decree Law 4633 of 2011) (ILCo, 2024, p. 34).

Thus, through Resolution 0156 of 2018, the Ministry of Environment established the guidelines to formulate and implement, with a differential approach, the instruments and mechanisms for planning and management in the areas protected by the National Natural Parks of Colombia (PNNC) with the presence of PIA or any segments thereof (ILCo, 2024, p. 34); it sets out the principles compatible with indigenous recognition methodologies, such as, for example, territorial interdependence,

in order to fully guarantee the rights to physical existence, spiritual, cultural and territorial integrity of PIA, the relationship of the territories of PIA with the territories of other indigenous peoples in the same geographical area is recognized, such that the scope of the protection measures has effects beyond the defined intangible areas.

In 2018, the joint work of indigenous authorities, organizations and agencies in Colombia, with state entities such as the PNNC and civil society organizations, allowed for the issuance of Decree 1232 of 2018, which creates and organizes a National System for the Prevention and Protection of Rights of PIA and establishes special preventive and protective measures (ILCo, 2024, p. 35).

In 2013, the indigenous authorities of the Curare Los Ingleses Reserve, acting as their own government, in observance of the Law of Origin, the Sacred Indigenous Law or Indigenous Law of their communities, and in exercise



of the rights conferred by the Political Constitution, within the framework of the Special Indigenous Jurisdiction, issued Resolution 001, which recognizes the presence of PIA in the jurisdiction of the reserve territory and formalizes the decisions to protect these peoples with the recognition of an intangible zone (ILCo, 2024, p. 35).

In 2019, the Ministry of the Interior disseminated Decree 1232 of 2018 to communities adjacent to the Yuri and Passé peoples. The local indigenous organizations decided to contribute to the protection of the PIA territory by building a territorial prevention and protection system based on their knowledge systems. The prevention and protection system develops monitoring activities and the inclusion of the protection of peoples in their natural state in the territorial planning and management instruments.

The methodologies for the recognition of PIA/PIEN by indigenous peoples and organizations are not yet systematized. However, they defend, based on indigenous traditional knowledge, the no-contact perspective and “indirect action” procedures.

### *Curare los Ingleses Indigenous Reserve:*

For the Management Plan, it is essential to ask permission from the owners of nature. These permissions are given through healing rites performed by wise men or sages, who, through thought, offer elements such as mambe, snuff, breo, incense and carayurú, so that there is harmony between the invisible beings and the indigenous people.

From this context, information is gathered from oral tradition in order to identify evidence of the existence of PIA/PIEN. The methodology was based on interviews with the elder (wise men/sages), fur and rubber tappers, ex-guerrillas, loggers and hunters who confirmed the existence of these peoples.

It is clear to everyone that when we are talking about protecting the Yuri and their territory we are not interested in contacting them to protect them. However, we should also clarify what we mean by not disturbing them. We do not consider it prudent or agree with overflights or any kind of search for traces. This does not mean that we cannot jointly define actions or protection models for these colleagues [...]. In the case of the Yuri, if the Curare Reserve has decided to initiate a series of actions for their protection, they have every right to do so [...]. The sages have already given their point of view and it is our responsibility as leaders to define actions that are framed within this thinking.

All of our environmental management efforts recognize that there is a spiritual relationship between man and nature, which is why we call it Mother Earth.

Our purpose is to preserve and sustain natural primary forests not intervened by man; therefore, Criacia chose to zone the reserve

to comply with this principle. Therefore, we decided that the place inhabited by indigenous peoples and peoples in isolation is synonymous with rainforest and preserved ecosystems (ILCo, 2024, p. 25; Silva, 2019).

## Ecuador

Table 8. Summary of recognition methodologies, Ecuador

Country	State Methodology	NGO methodology	Methodology of indigenous peoples and organizations
<u>Ecuador</u>	Existing. Not formalized. Under the principle of no contact	Existing. Systematized. Under the principle of no contact	Existing, but not systematized in writing. Under the principle of no contact

Source: author.

### **State Methodology**

Although the Ecuadorian State does not have an explicit law or regulation for the territorial recognition or confirmation of these populations, the mechanisms to make protection effective was the creation of an intangible zone that establishes the exclusion of extractive activities of renewable and non-renewable resources. This is based on Articles 10, 57, 71, 275 and 407<sup>80</sup> of the Constitution of Ecuador (ILEc, 2024, p. 43).

With the creation of the Precautionary Measures Plan in 2007,<sup>81</sup> and its subsequent change to the Directorate for the Monitoring and Follow-up on the Protection of Indigenous Peoples in Voluntary Isolation (DMSPPIAV), several mechanisms and methodologies<sup>82</sup> were established that are applied in

<sup>80</sup> Article 407. Extraction of non-renewable resources is prohibited in protected areas and areas declared intangible, including logging. Exceptionally, such 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 deemed convenient, may call a referendum. All types of metallic mining in any of its phases are prohibited in protected areas, urban centers and intangible areas.

<sup>81</sup> Precautionary measures granted by the IACHR, through communication MC-91, in 2006, in favor of the Tagaeri and Taromenane, requiring the State to take the necessary measures "to protect their life and personal integrity" and territory. It should be noted that the document of the Precautionary Measures Plan, adopted by the Ecuadorian State, in its various versions, is not in the official record.

<sup>82</sup> The document is entitled "Institutional action protocols for activities carried out in the Tagaeri-Taromenane Intangible Zone and its area of influence". It is not a public document.

accordance with the principle of no contact and the UN guidelines<sup>83</sup> (ILEc, 2024, p. 31).

### **NGO methodology**

The NGOs follow the methodology defined by the State.

Based on the principle of no contact, the methodologies are framed within the guidelines of the OHCHR (2012). This methodology is characterized by the following elements: 1) field work; 2) overflights over the ZITT and PIAV territory; 3) field visits; 4) analysis of the material culture; 5) testimonies of the Waorani, Kichwa and mestizo people; 6) secondary information (bibliographic analysis, published documents, etc.) and 7) the use of Geographic Information Systems (GIS) that allow the collection and analysis of spatial data to confirm and map the indigenous territories, at different time scales. These systems rely on geospatial information, satellite data and the traditional knowledge of neighboring indigenous and peasant communities to determine territorial boundaries and extents.

In addition, participatory approaches are incorporated that involve members of the indigenous communities in the process of recognition, identification and confirmation of the presence of PIA in the surrounding area. Ethnographic and socio-cultural methodologies are also used to understand the historical relationship of indigenous communities with their territories. These approaches consider aspects such as agricultural practices, material and food culture, rituals and traditions that demonstrate the ancestral occupation of a territory. This deep understanding of the connection between indigenous populations and their living spaces is essential to legitimize their territorial rights in the Ecuadorian legal framework and ensure their long-term protection. Together, these methodologies play a crucial role in the preservation of indigenous culture and the protection of their territories in Ecuador. In this regard, the methodologies used make it possible to obtain quantitative and qualitative data on PIA and the management of their territories (ILEc, 2024, pp. 2-3).



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<sup>83</sup> The actions carried out by the Precautionary Measures Plan are framed within a methodology that consists of the systematic collection of data that may indicate the presence of PIA. In addition, a permanent system of routine monitoring has been established to prevent the occurrence of illegal activities within Yasuní National Park that could affect the integrity of this population. These methodologies include river patrols within the Waorani territory and rural and Kichwa communities, in a planned manner, and also in response to any alerts from the population. On the other hand, data collection and analysis is done by obtaining geo-referenced and bibliographic information and on-site surveys on the verification criteria used in the Precautionary Measures Plan.

# Paraguay

Table 9. Summary of recognition methodologies, Paraguay

Country	State Methodology	NGO methodology	Methodology of indigenous peoples and organizations
<u>Paraguay</u>	Not existing	Existing, systematized. Under the principle of no contact	Existing. Under the principle of no contact

Source: author.

## State Methodology

The Paraguayan State does not have any type of mechanism or methodology to verify the existence of PIA in the country (ILPy, 2024, p. 32).

The National Indigenous Institute (INDI) is the official body for the implementation of indigenous policies. Its bylaws do not include procedures for the recognition of groups in isolation; there are only processes for the recognition of communities and community leaders, in all cases already established and with democratic mechanisms adopted for such purpose.

The Protocol of the Ministry of Justice establishes the criteria for avoiding contact and, when such contact occurs, guides the forms of progressive integration of the contacted group, but does not address the issue of official recognition of the existence of the different Ayoreo PIA or other peoples that could be identified (PNCAT, 2018). On the other hand, technically this protocol is limited to the possible presence of indigenous groups in isolation of the Ayoreo Totobiegosode group within the area defined by the PNCAT (ILPy, 2024, p. 42).

## NGO methodologies

The methodology for the recognition of the Ayoreo PIA is developed by Iniciativa Amotocodie, in permanent collaboration with key Bolivian organizations and individuals. Thus, it not only enriches access to data that confirm their presence in both countries, but also the methodological design itself, which is dynamically adjusted (ILPy, 2024, p. 7).

The methodological process is based on the identification of evidence of the presence of groups in isolation, as witnessed by other contacted Ayoreo or inhabitants of the settlements or cattle ranches in the areas identified in previous years as areas of presence.



These records are corroborated on site whenever possible. Initially, this corroboration was made by the Iniciativa Amotocodie team. Currently, with the creation of a group of Ayoreo experts, elders and adults with a great deal of knowledge of life in the forest, are the ones who verify the information on-site and talk to the witnesses, in order to find possible inconsistencies that could put the validity of the testimony at risk (ILPy, 2024, p. 27).

All verified testimonies and findings are entered into a digital geographic database. This methodology has made it possible to identify the existence of several groups, since there are simultaneous records in very distant places. At the same time, it allows us to analyze the dynamics of change that occur as the advance of ranches with their transformation from forests to savannahs modifies the ecosystems and alters the access to livelihoods of the Ayoreo PIA.

In the case of sightings or exchanges of words in the forest, the evidentiary elements are regularly the testimonies of the people who found themselves in such a situation. These testimonies, on many occasions, have been corroborated in the field by the Iniciativa Amotocodie team, by the group of experts or by older adults from the nearest Ayoreo community, observing traces left on the land or effects of the encounter (ilpy, 2024, pp. 27-28).

The determination of which are the relevant signs has been made based on the knowledge of their cultural patterns, related to:

- \* The use of territory (routes and semi-permanent stays according to the seasons and forest type, linked to hunting activities, honey gathering, cultivation preparation, wild fruit gathering and salt seeking; or aspects of a spiritual nature that guide occupations or paths).
- \* The search for consumer goods (food, water, items to build utensils, objects to store, transport and preserve water or food, etc.).
- \* The existence of recent occupation sites, expressed in huts, recently discarded tools and cultivation areas (with or without crops).
- \* The use of shamanic, clanic or other signs that were left to warn others of their presence (ILPy, 2024, pp. 29-30).

Regarding the validity of these signs as legal evidence of the existence of isolated persons or groups, the legal doctrine of circumstantial evidence, used in Criminal Law, is applicable. It is treated in a particular manner in the Paraguayan Code of Criminal Procedure, as we can see in paragraph 136 of the Explanatory Memorandum, *in fine*, and can be transposed by logical criteria to the case of proving the existence of persons or facts related to the Ayoreo PIA:

There will continue to be confessions, presumptions or indications, but they will be assessed in each case by the judge (sound criticism), established by means of logical rules that make up the essence of the construction of certainty according to this evidentiary system (Supreme Court of Justice, 2001, p. LXXV; ILPy, 2024, p. 32).

## **Methodology of indigenous peoples and organizations**

Over the years, at the request of Iniciativa Amotocodie, a group of Ayoreo experts, independent of UNAP and the communities, was formed as a reference group to follow up on the defense of the right to self-determination of the Ayoreo PIA and their territory. This group of experts is engaged in gathering information on the presence of isolated groups or persons, dealing with the situation of high risk of contact and accompanying the Ayoreo workers who are in the vicinity of the isolated groups or persons, in order to avoid unwanted situations of contact. The members of this group have their own criteria for the defense of the aforementioned self-determination and the principle of no involuntary and forced contact. The principle of “not initiating any kind of contact attempt” and respecting the physical spaces temporarily occupied by indigenous groups in isolation, not approaching them until the group withdraws, is the basis of this “own judgment”. Under this concept, the group of experts assists those who have had a close experience, among other things, not to take objects or horticultural products from the places where the isolated Ayoreo group is located; not to try to make contact or bring them things (food, clothes, utensils) thinking that it will make their lives easier; not to pursue them when they take garden products, wires, iron or any object they need to make their tools from the workers’ campsites or from the vicinity of the settled communities; not to interpret an attempted contact when they approach ranch waterholes or sedentary communities in search of water, especially in times of drought; to temporarily stop work when in front of or in the vicinity of an isolated Ayoreo orchard, a hut in use or recent footprints on forest trails (ILPy, 2024, pp. 31-32).

Regarding the process of confirming the existence of PIA, Iniciativa Amotocodie and the group of experts adopted the following criteria:

1. All information regarding the presence of PIA is considered data to be confirmed. Much information comes from unverifiable sources. The validity of information is prioritized over the number of cases reported, in order to maintain a demonstrable database.
2. To prevent the presence of PIA from becoming a commodity (commercial exchange object), the information is never accessed through monetary rewards to the informant.
3. The action of confirmation or verification of the existence of PIA should not violate the principle of no contact, and should strictly avoid entering their territory to confirm their presence or location in case the group in isolation is still in the area.

Once the existence of an indigenous group in isolation has been confirmed, actions are guided as follows, in accordance with the aforementioned principles:

- > Confirmation and protection actions are developed in the region around the PIA, without intervening in the specific territory where the identified group is located. Precautionary measures are developed to halt activities that may affect the integrity of PIA in their territory. Political pressure is exerted so that each



development plan or work implementation plan in the territory inhabited by the identified PIA considers the contingency and prevention measures necessary to avoid contact with or direct impact on the isolated group or its territory in use in that region.

- > No defense and protection action should jeopardize the PIA's self-determination and the principle of no contact or unwanted contact.
- > Given the inefficiency and ineffectiveness of the State, not every confirmed presence becomes a call for the intervention of the Public Ministry or the corresponding agency, depending on the political mood in power.
- > Settlers are informed of the existence of legal and criminal regulations (Ministry Protocol) in case of provoked contact, in order to avoid any attempt to capture people in isolation.
- > All persons (Ayoreo or not) involved because they are in proximity to the identified isolated group are accompanied and oriented, so that no unwanted contact situation is produced by the PIA.
- > In accordance with the aforementioned protocol, the relevant authorities are informed and State intervention is sought in highly sensitive situations beyond the capacity of local control, especially for the prevention of contact.

The methodology described below has been developed over the last twenty years by Iniciativa Amotocodie, and since 2005 has included the participation of Ayoreo indigenous organizations (Ayoreo expert groups). Since 2009, it has had the support of some Bolivian organizations. The methodological process is based on the identification of signs of the presence of groups in isolation.

The methodology is structured as follows:

**1. Field monitoring:**

- > Regular and permanent trips to the areas where isolated groups are present in the northern Chaco.
- > Trips are made along the edges of areas where isolated groups are present, thus avoiding entering areas where unwanted contact may be induced.
- > During each trip, the need or not to go to a site, travel a road or verify certain information is constantly evaluated, thus safeguarding the peace of mind of isolated groups.
- > We visit settlements, farms, military detachments, cattle ranches, work camps, and we talk and, if possible, obtain data on signs, signals and information on isolated groups.
- > We also talk with occasional travelers, visitors and macateros (street vendors) in the area.
- > Other people sometimes at these sites are charcoal producers or illegal palo santo extractors, who, because of their own illegal status, rarely feel comfortable talking to visitors. However,



they provide some information or clue that helps with the research.

## 2. Conversation with informants:

- > To gather information on signs of the presence of isolated groups.
- > To obtain information on new clearings in the area, production plans or projects, mega-construction projects and potential threats to the people of the forest and their territory.
- > To inform settlers, landowners and workers about the situation of isolated groups and their territory.
- > To provide recommendations to avoid violent contacts and encounters posing a risk to the lives of isolated groups and the informants themselves.
- > All this generates a substantial increase in field protection measures, since:
- > A network of “informed informants” is created who can give minimum and correct answers to situations of approach, sighting or presence of signs.
- > The informant’s confidentiality is protected and a relationship of trust and exchange is generated.
- > The settlers, landowners and workers report various signs or indications of presence by agreed means (they go to the office, report it to other local informants, by HF radio and in some cases by telephone).

The team must have the necessary skill, ability and sensitivity to build good relationships with local settlers and the people who stay in the area for varying periods of time for different types of work.

## 3. Signs of presence of forest-dwelling groups:<sup>84</sup>

What are these signs:

- > Sightings (footprints).
- > Clonal marks on trees (holes in trees from which honey was extracted).
- > Feathers, sticks or other shamanic signs (abandoned objects).
- > Whistles and whistling sounds (disappearance of wire and tools).
- > Feelings of presence (traces of ash).
- > Huts or campsite remains.

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<sup>84</sup> The presence of signs explicitly representing the Ayoreo culture, such as shamanic indicators, weapons thrown against machinery in attacks defending their crops, sightings of characteristic people (color, hairstyle, nudity, weapons in hand, voices), findings of recently used huts, unmistakable footprints due to the type of footwear and the way they walk (characteristic of the Ayoreo people, recognized by other neighboring indigenous peoples and which gives the Ayoreo people their name in neighboring languages), utensils recently abandoned upon discovery, voices and noises typical of harvesting activities, testimonies of recently captured people referring to other relatives who were separated in a recent period and, due to changes by deforestation, could not be reunited within one year, are the main indicators that confirm the existence of the Ayoreo PIA (ILPy, 2024, p. 14).



Database:

- > Sign dates.
- > Sign location.
- > What the sign consists of.
- > Witnesses.
- > Informants.
- > Detail of events.
- > Data analysis and evaluation.
- > Date of receipt of information.
- > Reliability and significance assessment (IA-UNAP).
- > Geo-referenced location of each sign and event site.
- > Analysis of potential risks.

The participation of the Ayoreo people:

- > Since May 2005, all monitoring work has been carried out by Ayoreo experts appointed by UNAP.
- > This improved the quality and depth of monitoring substantially.
- > Every piece of data, sign and information is cross-checked with experts, sometimes during the trip itself.
- > If they do so after the trip, it involves consultation with other Ayoreo experts in the process of analyzing each case.
- > The IA team learns to see and understand other previously un-noticed signs.
- > The interpretation of the geo-referenced data was enriched as follows:
  - > In addition to knowledge of the usual places of presence of the isolated groups, the interpretation of the migration routes was added.
  - > Seasonal use of various types of land is documented.
  - > Knowledge of the territories used by the various groups in the forest was improved.
  - > The action of UNAP allows close and reflexive accompaniment of the Ayoreo of Ijnapui, a village that was settled in 2007 within the ancestral territory of the Ayoreo people in an area where an isolated group is present.
  - > This settlement represents an important experience because, on the one hand, there are contacted Ayoreo people and, on the other, isolated Ayoreo people who are living together and sharing resources from the same territory.

4. Other sources of information:

- > Periodic reviews of satellite images to measure the impacts of anthropogenic action on the territory in use by isolated groups.
- > Periodic review of the livestock exploitation plans submitted to provincial and municipal governments to obtain the environmental license.

- > Communication of the Ayoreo people working on ranches, in areas where isolated groups are present, with their relatives at settlements.
  - > Other informants in Philadelphia who work providing services to ranches (contractors, dozer operators, carriers).
- 5. Monitoring documentation:**
- > Each trip is accompanied by a written report containing all the details of the work, a day-by-day account of activities, and a more complex analysis of the field situation and a better interpretation of it.
  - > The following are also recorded:
    - > Routes traveled.
    - > Signs of presence.
    - > Dismantled areas.
    - > Opening of new paths or trails.
    - > Sites of importance for the life of isolated groups.
    - > Territory and land use data.
  - > It is also documented with photographic records, audio recordings and filming.
  - > Maps drawn or provided by informants during field trips are attached to the reports.
  - > Whenever possible, data on rainfall in the area, and other information from the local population that may be important for analyzing the condition of a particular area, is recorded
- 6. Protective measures:**
- The monitoring results allow us to:
- > Define priority or urgent areas for protection;
  - > Anticipate situations that put at risk the validity of the way of life of isolated groups.
  - > Properly inform political decision-makers and public opinion to ensure that they take the necessary measures for the protection of isolated groups.
- 7. Geo-referenced data collection and satellite technologies form a substantive part of the registration and verification methodology. The methodologies developed for the multitemporal analysis of high-resolution satellite images allow us to evaluate critical situations regarding knowledge of groups in isolation in areas that are being transformed by anthropic (infrastructure works or transformation of forests into agro-productive savannas) or mixed factors (fires, floods), and to predict the next relocation sites of the identified Ayoreo PIA.**

# Peru

Table 10. Summary of recognition methodologies, Peru

Country	State Methodology	NGO methodology	Methodology of indigenous peoples and organizations.
Peru	Existing. Under the principle of no contact	Not existing	Existing. Under the principle of no contact

Source: author.

## State Methodology

The PIACI recognition process is initiated by the Ministry of Culture, by the Vice-Ministry of Interculturality (VMI) or through a request made by one of the following actors: regional Government, local Government, academic institution, Amazonian indigenous organization or native community.<sup>85</sup>

However, as a general rule, the initiative comes from civil society, and specifically from the representative indigenous organizations, who since the 1990s have been promoting these processes, preparing independent technical studies financed with their own resources, submitting the corresponding requests and carrying out advocacy efforts, campaigns and actions to promote their progress (ILPe, 2024, pp. 8 y 15).

In accordance with the established procedure, the request and accompanying documentation, received by the VMI, is submitted to the General Directorate of Indigenous Peoples (DGPI), which agency is responsible for the technical assessment of the request and for sending the corresponding communication to the requesting party within an agreed period of time. In the event of a favorable assessment, i.e., with “reasonable signs” of the presence or existence of PIACI in the area, the process continues with the DGPI convening a “Multisectoral Commission”<sup>86</sup> as determined by law, in order to propose

<sup>85</sup> Supreme Decree 08-2016-MC, Article 10.

<sup>86</sup> The composition of the Multisectoral Commission is established by Article 11 of DS 008-2007-MIMDES as follows: (a) a representative of the DGPI of the MC, acting as president; (b) a representative of the Ombudsman’s Office; (c) a representative of the Ministry of Agriculture and Irrigation; (d) a representative of the Ministry of Environment; (e) a representative of the Ministry of Defense; (f) a representative of the Ministry of Health; (g) a representative of the Ministry of Education; (h) a representative of the Ministry of



to said agency the technical team in charge of preparing the required document referred to as EPR.

The procedure only establishes the contents or structure of the EPR (Supreme Decree 008-2016-MC, Article 03-e. Fieldwork studies prior to the categorization of a people in isolation and initial contact):

An anthropological analysis containing studies of the oral tradition in the area of influence, kinship relations with possible nearby communities and physical evidence, with a registration period of no more than three years, found by the Technical Fieldwork Team, which supports the existence of a people in isolation or initial contact. Likewise, the EPR must identify the people and indicate an estimate of their population and the lands they inhabit (Supreme Decree 2007-MIMDES Article 15).

It is worth noting that current national and international regulations establish the State's obligation to guarantee the rights of PIA-CI over their "traditional" territories and to establish Indigenous and Territorial Reserves over the areas that PIA-CI "occupy and to which they have had traditional access".

Therefore, evidence older than the last three years is also considered extremely important and necessary for the studies required by law (EPR and EAC), and is based on Article 4 of Law 28736 ("PIACI Law"), which states:

Article 4. Rights of members of peoples in isolation or initial contact. The State guarantees the rights of indigenous peoples in isolation or initial contact, assuming the following obligations towards them: a) to protect their life and health, by developing preventive actions and policies as a priority [...]; f) to establish indigenous reserves, which will be determined on the basis of the areas they occupy and to which they have had traditional access.

Likewise, Article 14.1 of ILO Convention 169, which has constitutional status and has been in force in Peru since 1995, states:

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Energy and Mines; i) a representative of the Ministry of the Interior; j) a representative of the Regional Government, where the people in isolation and initial contact are located. In the event that the area involves the jurisdiction of more than one regional government, a representative of each of them will be considered; k) a representative of the Provincial Local Government, where the people in isolation and initial contact are located. In the event that the area involves more than one province, one representative from each province will be considered; l) a representative specialized in anthropology from a National University, designated by the National Assembly of Rectors; m) a representative specialized in anthropology from a private university, designated by the National Assembly of Rectors; n) a representative of AIDSESP, an indigenous organization with national representation; and o) a representative of the Confederation of Amazonian Nationalities of Peru (CONAP), an indigenous organization with national representation. The DGPI DACI will act as Technical Secretariat of the Multisectoral Commission.

The peoples involved shall be granted the right of ownership and possession over the lands they traditionally occupy. In addition, in appropriate cases, measures shall be taken to safeguard the right of peoples involved to use lands not exclusively occupied by them, but to which they have traditionally had access for their traditional and subsistence activities. In this regard, particular attention should be paid to the situation of nomadic peoples [...]. 2. Governments shall take such measures as may be necessary to determine the lands which the peoples concerned traditionally occupy and to ensure the effective protection of their rights of ownership and possession.

Both the national and international regulatory frameworks establish the legal obligation of the State to recognize and protect the “traditional” territories of PIACI.

In order to determine and protect the traditional territories of these peoples, it is necessary, and extremely important, to also consider and value evidence older than the last three years in the analysis of the EPR and EAC studies. In other words, according to current regulations, all evidence is considered valid for official studies, regardless of its period of registration or age. The most recent evidence (from the last three years) is used to demonstrate the continuous and current occupation of a certain area of their territory by PIACI. In turn, the “older” evidence (which period of registration dates from the last 3–60 years) is also considered valid and necessary to reconstruct the occupation, traditional access and use of the territory by PIACI, in order to “confirm” the existence of PIACI and delimit the reserves established by the State in their favor.

In addition to the technical team in charge, the procedure contemplates that the Multisectoral Commission may also convene experts “to provide their opinion, when deemed appropriate” (Supreme Decree 008–2007–MIMDES, Article 15). The EPR must be submitted by the Multisectoral Commission to VMI no later than six months from the time the original request was favorably assessed (however, this legal deadline has never been met. In some cases, the official studies have taken more than thirty years, far exceeding the legal deadline of six months established by law). This phase ends, if favorable, with the formal recognition of PIACI by a supreme decree (ILPe, 2024, pp. 15–16).

According to Law 28736<sup>87</sup> and its regulation, Supreme Decree 008–2007–MIMDES, the recognition of a PIACI is considered the first phase of the process of creating an indigenous reserve, i.e., the specific territorial figure recognized by the Peruvian framework for the protection of PIACI, defined as

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<sup>87</sup> Article 3 of Law 28736 establishes the procedure to recognize a human group or indigenous reserves with the category of PIACI thus; in its subsection a) provides that a human group is recognized with the category of PIACI by supreme decree, which requires a prior study conducted by a Multisectoral Commission chaired by the Enforcement Unit 004: National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples; such study must contain means of proof of the existence of the indigenous human group or groups in the situation described, their identification, as well as an indication of the size of their population and the lands they inhabit.



lands delimited by the Peruvian State, of transitory intangibility, in favor of indigenous peoples in isolation or initial contact, and as long as they maintain such situation, in order to protect their rights, their habitat and the conditions that ensure their existence and integrity as peoples (Law 28736, Article 2. ILPe, 2024, p. 16).

The research that generates the studies required to recognize isolated peoples and create reserves is carried out through the recruitment, by means of a public tender, of external consulting teams, generally NGOs with technical experience (ILPe, 2024, p. 8).

The methodological guidelines on which the technical studies are developed are established, on the one hand, in Law 28736<sup>88</sup> (known as the “PIACI Law”) and its regulations,<sup>89</sup> which describe in general terms the contents or structure of the EPR and EAC,<sup>90</sup> and, on the other hand, the principles defined by Ministerial Resolution 240-2015-MC.<sup>91</sup> Taking both sources as a reference, and based on the technical documentation submitted by the requesting party and other existing documentation, the Ministry of Culture and the designated external institution define the methodological design to be carried out for each study (ILPe, 2024, pp. 8-9).

The national framework for the protection of PIACI in Peru, Law 28736 and its regulations, recognizes the participation of indigenous organizations in some spaces and processes, such as the following:

1. Indigenous organizations —as well as other institutions such as regional or local governments, academic organizations and communities— may propose or request the Ministry of Culture to initiate processes for recognizing the existence of a PIACI or the creation of an indigenous reserve for the protection of their traditional territories.
2. In the processes of recognition of a PIA or creation of indigenous reserves, after the admission of a request, the participation of two national Amazonian indigenous organizations is considered, AIDSEP and CONAP, as members of the Multisectoral Commission created to follow up on the aforementioned processes. The weight of the indigenous organizations referred to in these processes is very limited, given that the composition of the members of the Commission is mostly made up of State sectors,<sup>92</sup>

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<sup>88</sup> Law for the Protection of Indigenous or Native Peoples in Isolation and Initial Contact.

<sup>89</sup> Supreme Decree 008-2007-MIMDES, as amended in 2016 by Supreme Decree 008-2016-MC.

<sup>90</sup> Articles 15-22 of Law 28736 and its regulation, Supreme Decree 008-2007-MIMDES, as amended in 2016 by Supreme Decree 008-2016-MC.

<sup>91</sup> The instrument referred to is Ministerial Resolution 240-2015, of the Peruvian Ministry of Culture, which addresses the “Protocol of action upon discovery, sighting or contact with Indigenous Peoples in Isolation and for relations with Indigenous Peoples in Initial Contact” in force since 2015.

<sup>92</sup> The Multisectoral Commission is made up as follows: 1) a representative of the DGPI of the MC, acting as president; 2) a representative of the Ombudsman’s Office; 3) a representative of the Ministry of Agriculture and Irrigation; 4) a representative of the Ministry





and within this space, decisions are made by voting.

3. In relation to the implementation of protection, within the current framework, the reference to the participation of indigenous organizations is established in general terms and at the level of coordination and exchange of information:

State institutions and civil society participate in achieving any objectives under the Law, pursuant to the regulations in force. The VMI and Amazonian indigenous organizations establish coordination mechanisms for the exchange of information on peoples in isolation and initial contact (Supreme Decree 008-2007-MIMDES, Article 9: “Participation of civil society”).

4. Participation in Protection Plans and Protection Management Committees: Law 28736 and its regulations establish specific management instruments for indigenous reserves, referred to as Protection Plans. The rule does not mention an effective recognition of the participation of indigenous organizations in the process of drafting this instrument and the importance of their role in the implementation of protection.<sup>93</sup> On the other hand, the participation of indigenous organizations is not explicitly mentioned in the Protection Management Committees—a mechanism created after the approval of an Indigenous Reserve’s Protection Plan and chaired by the VMI<sup>94</sup> (ILPe, 2024, pp. 22-23). However, in practice,

of Environment; 5) a representative of the Ministry of Defense; 6) a representative of the Ministry of Health; 7) a representative of the Ministry of Education; 8) a representative of the Ministry of Energy and Mines; 9) a representative of the Ministry of the Interior; 10) a representative of the regional Government where the people in isolation and initial contact are located—in the event that the area involves the jurisdiction of more than one regional Government, a representative of each of them will be considered—; 11) a representative of the Provincial Local Government where the people in isolation and initial contact are located—in the event that the area involves more than one province, one representative from each province shall be considered—; 12) a representative specialized in anthropology from a national university, appointed by the National Assembly of Rectors; 13) a representative specialized in anthropology from a private university, appointed by the National Assembly of Rectors; 14) a representative of AIDSESEP, an indigenous organization with national representation; and 15) a representative of the Confederation of Amazonian Nationalities of Peru (CONAP), an indigenous organization with national representation.

<sup>93</sup> Supreme Decree 008-2007-MIMDES, Article 43. “For such purpose, the Vice-Ministry of Interculturality shall, sixty calendar days after the publication of the Supreme Decree that assigns the category of the Indigenous Reserve, publish in the *Official Journal El Peruano*, the Protection Plan indicating the functions of each sector, institution or organization, as well as the mechanisms for the participation of civil society institutions that have an interest in collaborating in the protection of the reserve, for which they will sign a cooperation agreement with the Vice-Ministry of Interculturality”.

<sup>94</sup> Supreme Decree 008-2007-MIMDES, Article 42. The composition of these committees is as follows: “a) a representative of the Vice-Ministry of Interculturality, acting as president; b) a representative of the regional Government where the reserve is located; c) a representative of the provincial municipality where the reserve is located; d) a representa-

neighboring native communities and representative indigenous organizations at the local, regional and national levels participate in all Reserve Protection Management Committees in Peru.

### **Methodology of NGOs / Methodology of indigenous peoples and organizations**

The methodology used by FENAMAD was based on the principle of no contact.<sup>95</sup> This implies that the research conducted, the gathering of field information and the evidence of the existence of peoples in isolation was carried out through “indirect actions”, in accordance with the standards established in the Protection Guidelines for Indigenous Peoples in Isolation and Initial Contact in the Amazon region, Gran Chaco and the Eastern region of Paraguay (OHCHR 2012; ILPe, 2024, pp. 2-3).

This process officially began in 2000, in response to the need to protect the Mashco Piro indigenous people and others from the intensification of threats from extractive activities, particularly hydrocarbon and forestry activities. At the methodological level, several relevant aspects can be identified in this study; these are listed below:

- \* FENAMAD’s technical work was carried out after signing a technical cooperation agreement between FENAMAD and the Regional Agrarian Directorate of Madre de Dios, in which the competent public authority endorsed the federation to prepare the file to create a reserve. The process was developed with the collaboration and support of institutions in Peru and Brazil.
- \* The research had an interdisciplinary approach and addressed the context of peoples in isolation through ethnohistorical, anthropological and environmental aspects.
- \* The description, analysis and discussion of the data and evidence is organized into several key themes for protection, in particular the

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tive of the Regional Health Directorate; e) a representative of the Regional Directorate of the Ministry of Education; f) a local representative from the Peruvian National Police; g) a representative of the DGffs and SERFOR; h) two indigenous representatives from neighboring native communities; and i) any other institutions or organizations that the Committee deems appropriate. In this regard, the participation of indigenous peoples is established through “two indigenous representatives from neighboring native communities”.

<sup>95</sup> The principle of no contact is the articulating axis on which all the rights of peoples in isolation are based, and which also makes it possible to plan actions and practices for their protection (including their identification and methodologies for the recognition of their existence). This principle emerges in opposition to the traditional policies of forced or induced “contact”, which generate territorial dispossession, rights violations and extermination. The implementation of the principle of no contact recognizes the right of indigenous peoples to live in isolation, to assess their situation of special vulnerability and the urgent need to address their protection through specific measures that help mitigate external interventions and impacts that could induce or force them to leave their condition of isolation. Within this framework, priority protection measures include the recognition of the existence and rights of peoples in isolation, and the guarantee of the intangibility and integrity of the territories in the face of external interventions and pressures that could endanger the lives of these peoples.

characterization of the ethnographic aspects of the people, the articulation of the historical processes of colonization and the current situation of isolation, the context of risks and threats caused by external pressures on the territories, the use of the territory and the dependence on natural resources for survival.

- \* It includes a database of evidence of the existence of peoples in isolation, whose geographical scope includes areas of territorial occupation in Peru and Brazil; as well as referenced descriptions (type of evidence, place, date, informant and source).
- \* Information and evidence of the existence of peoples in isolation was gathered in compliance with the principle of no contact; i.e., no approaches or direct encounters with these peoples were sought. This evidence consists of testimonies gathered through interviews with local people, carried out by the FENAMAD team during fieldwork, in the area surrounding the PIACI territories, as well as other evidence provided by experts and institutions.
- \* The analysis of the data and information from the study resulted in a definition of the territorial area of the people in isolation and a boundary proposal for the creation of the reserve, in an area of 2,428,613 hectares (ILPe, 2024, pp. 17-18).

Some of the key methodological aspects of these studies are:

- \* The technical work carried out by FENAMAD included contact and coordination with various public authorities throughout the process, but did not formally form part of an inter-institutional agreement, as was the case with the previous process of recognition of the Mashco Piro people and others promoted by the organization in the north of the region around the year 2000.
- \* The “Preliminary Study” document explicitly mentions the use of an “indirect” methodology for the collection of field evidence, in accordance with the principle of no contact.
- \* The methodology adopted for this report was to avoid contact with the groups presumed to be in isolation and not to enter areas where there is evidence of their presence, while respecting their rights to self-determination and health. Therefore, field work was conducted in the native communities adjacent to Protected Natural Areas (PNA) and with local people who, for work purposes, enter these areas.

Thus, FENAMAD’s policy of promoting the protection of PIA has been maintained, using indirect methodologies to gather information on their presence, current situation and threats (ILPe, 2024, p. 26).

The study has the following characteristics:

- \* The database of evidence of the existence of peoples in isolation prepared includes testimonies compiled by the FENAMAD team with local informants and experts, as well as the analysis of secondary sources. The interviews conducted were audio and video recorded, and their content



is transcribed in the study. Likewise, the research also incorporated other complementary information obtained from satellite images, revealing the finding of clearings in the forest at several points in the study area, as a possible certainty of presence and occupation.

- \* The study provides PIACI evidence in two groups, the most recent evidence, corresponding to a period of no more than three years (between 2010–2012), and older evidence, recorded or located prior to 2010. Thus, we respond to the requirements established in the UN guidelines and the Peruvian legal framework, in relation to the time validity of records in recognition studies, which requires evidence from the last three years, but also considers and values evidence “older” than three years, in order to determine the occupation, traditional access and use of the territory by PIACI, as well as the delimitation of the reserve, in compliance with Article 4 of Law 28736 and Article 15 of its regulations.
- \* In the analysis process, evidence of the existence of PIACI and external threats to their territories were used to define territorial occupation, possible displacement routes and existing risks in the different sectors (ILPe, 2024, pp. 20–21).

## Venezuela

Table 11. Summary of recognition methodologies, Venezuela

<u>Country</u>	<u>State Methodology</u>	<u>NGO methodology</u>	<u>Methodology of indigenous peoples and organizations</u>
Venezuela	Not existing	In process. It is a process just getting started. Under the principle of no contact	Existing, but not systematized in writing. Under the principle of no contact

Source: author.

### State Methodology

- \* Although there is no formal recognition by the Venezuelan State, its local institutions have developed various actions for care, protection, eventual contact or accompaniment and testimonies of sightings that indicate the recognition of the existence of these indigenous peoples, which are in addition to the statements obtained through field contact by researchers, indigenous leaders and indigenous grassroots organizations (ILVe, 2024, p. 5).
- \* Both the Ombudsman’s Office and some agencies of the Ministry of Popular Power for Health, have developed in their local areas various actions

for care, protection, eventual contact or accompaniment and testimonies of sightings that are indications of the recognition of the existence of these indigenous peoples. These are in addition to the statements obtained through field contact by researchers, indigenous leaders and indigenous grassroots organizations, civil society organizations attached to grassroots organizations and work in the Venezuelan Amazon –as is the case of Wataniba– that recognize their existence. Added to this certainty and commitment to recognition is the systematic work of outstanding researchers through the recording of diverse field testimonies of the existence of indigenous peoples or communities in isolation (ILVe, 2024, p. 12).

### **NGO methodology**

- \* Wataniba's actions with grassroots indigenous organizations (Organización Regional de Pueblos Indígenas del Amazonas –ORPIA–, Indigenous Organization of the Uwottüja People of Sipapo –OIPUS– and Organización de Base Indígena Yanomami Horonami) (ILVe, 2024, p. 2).
- \* The guiding principles that have been assumed, together with the indigenous grassroots organizations, are found in legal instruments, based on international law, specifically in human rights, rights of indigenous peoples and, particularly, with an emphasis on the recognition of the rights of PIA, where their right to self-determination and no contact is respected, as the basis for their protection; the right of PICI based on respect for their social organization, customs, languages, beliefs and traditions, as well as respect for their lands and territories (ILVe, 2024, p. 38).
- \* In terms of results, we can point out an incipient methodology and advocacy to verify the existence of PIA, which relies on the testimonies of indigenous leaders, their grassroots organizations and intergenerational references. In addition, the reference made by indigenous experts (anthropologists) in their research, as well as Wataniba's efforts in its actions towards these peoples, have allowed for even more differentiated treatment within the framework of positive discrimination, within the same framework of indigenous peoples and communities (ILVe, 2024, p. 39).
- \* Undoubtedly, there is a great challenge on the road to the recognition and confirmation of PIACI in the Venezuelan territory that implies the development of regulations, the definition of methodologies to confirm the existence of PIA, the conception of public policies and the implementation of articulated plans and projects for comprehensive protection (ILVe, 2024, p. 10).
- \* Wataniba has conducted technical advocacy with State bodies and entities responsible for the collective rights and interests of indigenous peoples and communities, such as the Ombudsman's Office, to inform and raise awareness on the topic of PIA and even suggest legislative proposals within the constitutional framework, which to date have not materialized (ILVe, 2024, p. 39).
- \* In general, there are no structured plans, training activities, tools and research techniques framed within academic and scientific standards



aimed at confirming the existence of peoples in isolation or initial contact. The indigenous grassroots organizations have experiences, practices and techniques through which they recognize the existence of these peoples. In their testimonies, in the Yanomami case, they refer to occasional contacts and exchanges after walking long distances and procedures to warn that they are in PIACI territories; as well as awareness of differentiation in treatment, since their tone of voice is lower, their gestures are less expressive and their language is also different.

In the case of the Uwottüja people, there is interest in guaranteeing the protection of these communities, and together with Wataniba, actions have been developed leading to the publication of the text *El territorio uwottüja*, which includes a section on peoples in isolation. In addition, the Protocol for the Free, Prior and Informed Consultation of the Uwottüja people was developed as part of the joint agenda and is available on the organization's website. Progress has been made with the participation of the Council of Elders and Sages, and members of OIPUS, in the construction of the map of sacred sites, where various landmarks of natural and spiritual value have been recorded. At the same time, work sessions have been held to update the Articles of Association and Bylaws of OIPUS, and to include, in a cross-cutting manner and through a special section, the recognition of the spiritual and foundational value of peoples in isolation, as well as the need to guarantee their protection.

As part of these days of debate and reflection, progress has been made on the idea of developing a regulatory proposal to be submitted to local authorities to formally recognize and validate the existence of the Uwottüja peoples. This is a challenge underway, which is accompanied by Wataniba (ILVe, 2024, pp. 36–37).

Although it is true that Wataniba, as a civil society organization, in coordination with grassroots indigenous organizations, has addressed the topic of PIACI, the information obtained does not have the standards to be recognized by official bodies. Therefore, it is necessary to have spaces for the exchange and construction of knowledge, experiences and methodologies for the collection and systematization of adequate and comparable information with country governments, civil society organizations, indigenous organizations and researchers to monitor PIACI (ILVe, 2024, p. 41).

### **Methodology of indigenous peoples and organizations**

Carlos Morales, an indigenous member of the Uwottüja people and a specialist in the subject of indigenous peoples and communities in isolation (Morales and Quispe, 2014), originally from a Uwottüja community that has only recently been contacted, said that indigenous peoples in isolation do exist, and that the Councils of Elders liaise with them:

The Councils of Elders are the ones who connect with indigenous peoples in isolation, they are the link, the intermediaries with the isolated peoples, physically and spiritually [...]. Isolated peoples live in a

parallel world, in an invisible form, and the elders communicate with them. Isolated peoples have a very strong worldview; they are our second original people.

Isolated peoples have a meaning of cultural and spiritual identity and protection of the territory.

Peoples in isolation live in a parallel world, and although they are human, they can be invisible or be transformed into people or animals. Isolated people share the task of care or administration of the resources with the Council of Elders, with whom they communicate through the use of *yopo* (ILVe, 2024, p. 8).

The Uwottüja's vision of peoples in isolation stands out, who are valued as protectors of sacred places, animals, renewable resources and minerals. For the Uwottüja people, the isolated people are in their places of origin, they belong to those places and everything there is taken care of by them. Such care is vital, because it makes it possible for life to be sustained (ILVe, 2024, p. 35).

In the case of the Yanomami people, the Horonami organization has been fundamental to know, also through testimonials, the presence of communities or groups in isolation in very remote places.

As some leaders of the organization stated, it is common practice to make trips around the territory in order to visit the communities, to learn about their situation and to bring back various pieces of information. During these visits, they ask about the presence of peoples in isolation and request that "a message be passed on" so that the organization can be received and they can exchange views. Thus, the surrounding communities act as a channel of communication, a link for contact, and oral tradition is the source of information and confirmation. It may happen, as Horonami rightly pointed out, that peoples or communities in isolation decide not to receive them, or, on the contrary, authorize the exchange.

Regarding the Jotĩ people, the research by Egleé Zent and Stanford Zent (2019) is a fundamental source for the affirmation of the existence of communities in isolation, and has been collected through testimonials from Jõti members of neighboring communities (ILVe, 2024, pp. 35–36).



# 2.

Regional report on principles and guidelines for the formulation of methodologies for recognizing the existence of Indigenous Peoples in Isolation in South America





## 2.1 Introduction

The PIA Regional Recognition Methodology Report (IRM) proposes “principles and guidelines for the formulation of methodologies for the existence of PIA in South America”. This initiative, promoted by the GTI PIACI, is the result of a regional analysis of the practices developed by States, Civil Society Organizations and Indigenous Peoples and Organizations in seven South American countries with a confirmed PIA presence.

In addition, such IRM is complementary to the OHCHR Guidelines (2012) and the IACHR Report (2013), since it addresses the methodology for the recognition of PIA in a very specific manner, while the aforementioned documents deal with the subject in general terms.

Recognition of the existence of a given PIA is the first administrative act that States must establish. For only then, on the basis of this recognition, is it possible to trigger the other fundamental rights, especially the right to self-determination and territorial rights.

By recognizing the existence of a PIA, from the perspective of the State, their status as subjects of law is acknowledged and, thus breaking the invisibility process to which these peoples are subjected.

For indigenous peoples, the “existence” of a people in isolation is independent of formal recognition by States. These peoples have always established relationships with PIA based on their own ancestral knowledge and practices, unknown or ignored by non-indigenous societies. They demand this recognition since they consider it a duty of the States to implement protection systems that safeguard the rights of these peoples.

In addition to the physical existence or geographic scope of their territories, we highlight the importance of the existence of profound cultural and spiritual manifestations, which are difficult to fit into a Western methodological systematization; however, they constitute an axis that should run through all actions aimed at recognizing their living and non-static presence in global societies. Such spirituality, to the extent that it can be apprehended, should permeate the methodologies of recognition of the existence of PIA, emphasizing the cultural and spiritual presence as a continent of their physical presence, as opposed to reductionist methodologies that are limited to demarcating sites and numbers of people, as if the location determined a restricted and static area and the number of people the importance of the group in assessing the impacts of the advancement of modern society (ILPy, 2024, p. 7). These values and manifestations constitute the intangible heritage of PIA and their contacted relatives. When there are regulations relevant to intangible heritage, they should be addressed from such perspective, reinforcing the rights and protection of these peoples.

This “dimension”, which goes beyond the physical verification of each PIA, is only tangible by the indigenous peoples themselves, who are the holders of knowledge and protocols based on their ancestral cosmologies. The effective



participation of indigenous peoples in the processes of PIA recognition, within the structure of the State, is of fundamental importance and a great challenge to overcome.

As mentioned above, the recognition of the existence of a given PIA is the first administrative act established by the States. Once their existence has been recognized by the State, the next steps are the cultural identification and definition of their territory, together with the implementation of a public protection policy.

## 2.2

# Context and work approach

According to the Regional Report: Territories and Development, Indigenous Peoples in Isolation in the Amazon and Gran Chaco (IR) (VAZ, 2019), in South America, THERE ARE 185 RECORDS OF PIA. OF THESE, ONLY 66 ARE “CONFIRMED RECORDS”, RESULTING IN 119 UNCONFIRMED RECORDS WHICH, FOR THE STATES, DO NOT EXIST. HOWEVER, IN ADDITION TO THE 185 RECORDS, THERE IS A SET OF RECORDS RECOGNIZED BY NGOS, INDIGENOUS PEOPLES AND ORGANIZATIONS THAT ARE NOT INCLUDED IN THE LISTS SUBMITTED BY THESE STATES. [Table 12](#) shows these values.

Table 12. Country/PIA records (2019)

	Confirmed:	To be confirmed:
<a href="#">Bolivia</a>	2	7
<a href="#">Brasil</a>	28	86
<a href="#">Colombia</a>	2	16
<a href="#">Ecuador</a>	3	4
<a href="#">Paraguay</a>	2	5
<a href="#">Perú</a>	26	10
<a href="#">Venezuela</a>	3	1
<a href="#">PIA</a>	66	119
<b>Total: 185</b>		

Source: Vaz (2019).

[Table 13](#) shows an update of the systematization of PIA records, available in the local reports of the seven South American countries, with data from 2024. We emphasize that the official recognition of the existence of PIA is given through the governing bodies of the States; however, several civil society and indigenous organizations, due to the absence of the State, promote actions for the protection and recognition of PIA,<sup>96</sup> and, consequently, recognize the existence of these peoples. The results of these initiatives are submitted to the competent bodies of each State, requesting not only their recognition, but also appropriate measures to safeguard their rights.

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<sup>96</sup> For indigenous peoples and organizations, the recognition of PIA is independent of the official recognition of the State. They demand this recognition because they are aware of the duty of the States to implement protection systems for these peoples in order to safeguard their rights.

The information shown in such table is segmented and labeled as follows: “Confir. State” corresponding to the number of records officially recognized by the State; “Confir. NGOs” corresponding to the number of records recognized (confirmed) by civil society organizations. The symbol + means that, in addition to those confirmed by the State, the indicated number is added, and “To be Confir. State” corresponds to the number of records not yet confirmed by the States.

This research involved 16 civil society organizations (indigenous and non-indigenous), members of the GTI PIACI, involving 43 researchers specialized in PIACI, lawyers, communicators, anthropologists, biologists, geo-processing technicians, among others (indigenous and non-indigenous). Therefore, we note that the number of PIA records (recognized by NGOs) could be higher, since not all civil society organizations were researched.

In the table, we also break down the information on recognized (confirmed) records: we distinguish which are confirmed by the States and which are confirmed by NGOs.

Comparison of the two tables shows us an increase in “to be recognized” (confirmed) PIA records, from 119 in 2019, to 128 in 2024. The total number of PIA records in South America increased from 185 in 2019, to 188 in 2024. We emphasize the number of PIA records confirmed by indigenous peoples and organizations, and NGOs, that are not recognized by the States: 31 records.

**Table 13.** Summary of PIA records in South America (2024)

	<u>Confir. State:</u>	<u>Confir. NGO:</u>	<u>To be Confir. State:</u>
<a href="#">Bolivia</a>	3	+6	6
<a href="#">Brazil</a>	28	+5	88 <sup>97</sup>
<a href="#">Colombia</a>	2	2 <sup>98</sup>	16
<a href="#">Ecuador</a>	2	2	2
<a href="#">Paraguay</a>	0	2	2
<a href="#">Peru</a>	25	+10	10
<a href="#">Venezuela</a>	0	4 4	4
<a href="#">PIA</a>	60	+ 31	128
<b>Total: 188<sup>99</sup></b>			

**Source:** author.

<sup>97</sup> Of these 89 records, there are three that are not on the official list of FUNAI records.

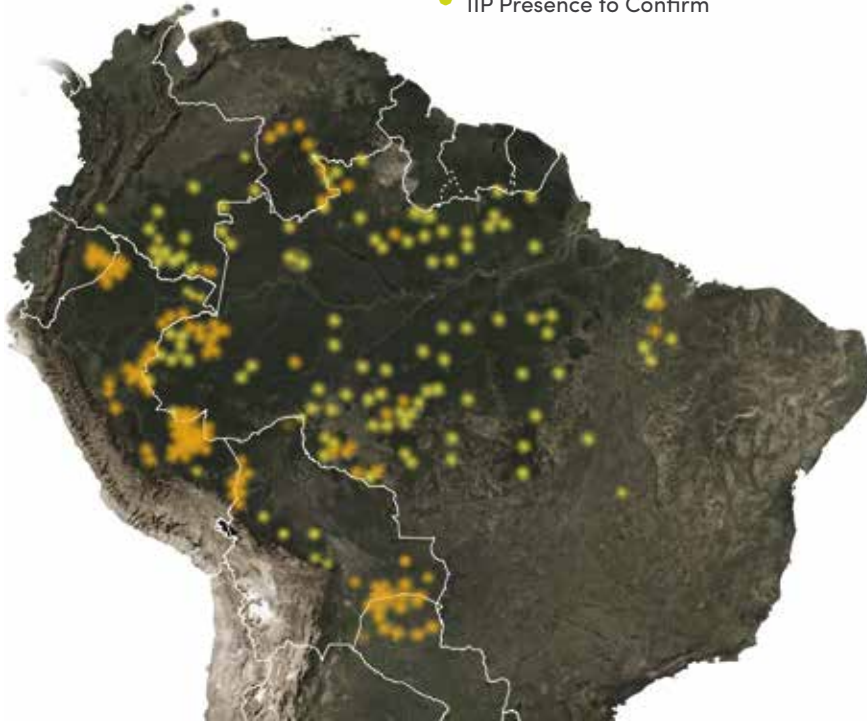
<sup>98</sup> Although NGOs do not confirm the presence of PIA, in agreement with the Ministry of the Interior, they can support the preparation of the Official Studies established in Decree 1232 of 2018.

<sup>99</sup> The total number of PIA records in South America is the sum of the records confirmed by the States and the records to be confirmed by the States (including those confirmed by NGOs).

## Map 2. PIA records in South America

### Indigenous Peoples in Isolation (PIA)

- Confirmed IIP Presence
- IIP Presence to Confirm



### Source: GTI PIACI (2024).

Data Sources: Location of Isolated Indigenous Groups: (Territorios generalized for confidenciality). Brasil: FUNAI, ISA. Bolivia: Iniciativa Amotocodie. Colombia: Amazon Conservation Team. Ecuador: Yasunidos. Peru: AIDSESP, FENAMAD, ORPIO. Paraguay: Unión Nativa Ayoreo del Paraguay, Iniciativa Amotocodie. Venezuela: Wataniba. Adapted from Land Is Life. 2019. Informe Regional de Pueblos Indígenas Aislados (PIA) Territorios y Desarrollo en la Amazonia y Gran Chaco. Amazon biogeographic region: RAISG. 2023. Gran Chaco biogeographic region: The Nature Conservancy

Progress in the protection of PIA throughout South America has been possible thanks to the movements of indigenous organizations, civil society organizations and sectors of the States that defend the promotion of the rights of these peoples, who are silenced and subjected to constant situations of high vulnerability.

In several South American States, organized civil society, including indigenous organizations, allied organizations and socio-environmental organizations, have promoted the enactment of legal frameworks for the protection of PIA. As for the definition of legal frameworks for the determination and implementation of PIA recognition methodologies, only the Republic of Peru<sup>100</sup> and the Plurinational State of Bolivia<sup>101</sup> have regulations approved by means of laws and supreme decrees.

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<sup>100</sup> Supreme Decree 008-2007-MIMDES, which aims to regulate Law 28736 of 2006 (Law for the Protection of PIACI) and establish mechanisms for the protection of the rights of PIACI, including procedures for the recognition of these peoples.

<sup>101</sup> Ministerial Resolution MJTI-RM-Z-131-2022 dated 12/13/2022, which approves the



In Peru, the regulations accept the ERP as a mechanism for recognition, being more effective than other instruments at a regional level, despite criticism from indigenous organizations regarding participation<sup>102</sup> in decision-making bodies for such purpose, and the very long time taken to complete processes, which experience delays of decades before resolution.

In Bolivia, the “Protocol for the Identification and Registration of Indigenous Nations and Indigenous Peoples in a Highly Vulnerable Situation”,<sup>103</sup> which includes PIA, in order to be effective, lacks specificity to work under a methodology for the identification of PIA and, consequently, recognition of their territoriality. There is also an inclination to approach peoples from their condition of high vulnerability, rather than from their isolation.

In Colombia, the Ministry of the Interior is in the process of drafting the “Protocol for the Study and Official Registration of Indigenous Peoples in Isolation or a Natural State in Colombia”, with the objective of methodologically guiding the registration process of Indigenous Peoples in Isolation or in their Natural State (PIA/PIEN), in its different modalities. This protocol details the methodological path to conduct the research for the official studies of PIA/PIEN, in order to confirm their presence, identify their territoriality and proceed with their registration, if so warranted, in any of the three modalities set forth in the regulations, avoiding as much as possible any type of bias.

In the case of Brazil,<sup>104</sup> Ecuador,<sup>105</sup> Paraguay<sup>106</sup> and Venezuela<sup>107</sup>, there are no official protocols, by means of laws and decrees, for the recognition of PIA established by these States. In the cases of Paraguay<sup>108</sup> and Venezuela, the situation is more delicate, since States do not officially recognize the existence of PIA in their national territories.

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 “Protocol for the Identification and Registration of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation” within the framework of Law 450 dated December 6, 2013, law on “Protection of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation”.

<sup>102</sup> “It implies limitations to the effective participation of indigenous organizations, given that since they are the main promoters of the opening of processes (and therefore considered ‘stakeholders’), they are excluded from leading the technical work that is the basis for the recognition of peoples in isolation and the creation of reserves”. These limitations on the participation of indigenous organizations are seen at different levels of the research process, including the methodological design, the planning and carrying out of field research to gather information and evidence, as well as in the subsequent phase of analysis and preparation of documentation and technical proposals, in which key elements are defined, particularly the use and occupation of spaces and the existing threats, on which the extension of areas to be protected and the measures to be implemented are defined (ILPe, 2024, p. 9).

<sup>103</sup> According to Article 2 of Law 0450 dated December 4, 2013, on the Protection of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation, they are considered a population in a highly vulnerable situation when their physical and cultural survival is extremely threatened. Likewise, paragraph II of this article states: “the following are situations of high vulnerability: 1) danger of extinction; 2) voluntary isolation; 3) forced isolation; 4) uncontacted; 5) in initial contact; 6) cross-border way of life; and 7) other situations of high vulnerability identified by the competent state body”.

From the perspective of indigenous organizations and civil society organizations (NGOs), recognition methodologies are introduced, in most cases, when available, in accordance with the legal frameworks of each country.

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104 The official recognition of the Brazilian State in the recognition and identification of PIA, and the consequent process of demarcation of an Indigenous Land occupied by these peoples, is based on a methodology that has been developed in recent decades by the experienced CGIIRC officials of FUNAI. However, the lack of rules, or even official documents on the procedures for this methodological practice, is one of the main challenges for the development of the work.

105 With the creation of the Precautionary Measures Plan in 2007 and its subsequent change to the DMSPPIAV, several mechanisms and methodologies were established (the document is entitled “Institutional action protocols for activities carried out in the Tagaeri-Taromenane Intangible Zone and its area of influence” —not a public document—) which are applied in compliance with the principle of no contact and as established by the Office of the United Nations High Commissioner for Human Rights through the Protection Guidelines for Indigenous Peoples in Voluntary Isolation and Initial Contact of the Amazon Region, Gran Chaco and the Eastern Region of Paraguay.

106 The Paraguayan State does not have any type of mechanism or methodology to verify the existence of PIA in the country. The methodology used by Iniciativa Amotocodie to confirm the existence of PIA, and specifically of the Ayoreo PIA in Paraguay, has evolved since the founding of the institution to the present. The methodological process is based on the identification of evidence of the presence of groups in isolation, as witnessed by other contacted Ayoreo or inhabitants of the settlements or cattle ranches in the areas identified in previous years as areas of presence.

107 As indicated, the Venezuelan State does not recognize the existence of indigenous peoples in isolation or initial contact. However, thanks to the joint work agenda between Wataniba and the Indigenous Organization of the Uwottüja People of Sipapo (OIPUS), we have been able to obtain, through conversations, work meetings, as well as interviews, testimonies from leaders and sages of the Council of Elders, affirming the existence of Uwottüja peoples in isolation. These statements are fundamentally oral, and are transmitted ancestrally by the elders and sages to the communities as part of their worldview (ILVE, 2004, p. 35).

108 The Paraguayan State only recognizes the Defensores del Chaco National Park (PNDCh) and the Ayoreo Totobiegosode Natural and Cultural Heritage as PIA territories. Both territories constitute a discontinuous area of approximately 1,350,000 hectares. Noticeably, we can affirm that the Paraguayan State does not recognize the territoriality of the Ayoreo people in isolation, but only admits the presence of “forest-dwelling indigenous communities that inhabit the area”, without specifying their belonging as a people (ethnically and as part of their own differentiated organizational structure) in the PNDCh. At the same time, it recognizes that there is a heritage of only one specific group of the Ayoreo people in a highly restricted area, which does not cover the entire territory of that single group, much less that of others identified. On the other hand, this recognition does not imply recognition of the presence of the Ayoreo PIA, but only of their heritage, as a cultural and natural contribution. Thus, we can state with certainty that the Paraguayan State does not recognize the presence of the Ayoreo PIA in territories other than those mentioned, despite the evidence. In the case of the PNDCh, it also fails to recognize the presence of the Ayoreo, but rather refers to “forest-dwelling indigenous communities” of an unspecified nature. The total surface area where evidence and indications are found with relative frequency covers approximately 7,700,000 hectares (in Paraguay); almost six times greater than that tangentially recognized by the Paraguayan State. They share this territory mainly with national parks, cattle ranches and intensive fodder grain producers, who are the registered owners of the land. Three contacted Ayoreo communities are settled on the borders of the territory in use by the Ayoreo PIA.





With respect to the PIA recognition methodologies developed by indigenous organizations and civil society organizations (NGOs) in each of the seven countries, we emphasize:

1. All civil society organizations (NGOs) participating in this IRM that work for the recognition (or protection) of PIA adopt the principle of no contact.
2. Only Colombia (ACT) and Paraguay (IA) have systematized methodologies for the recognition (and protection) of PIA.
3. Bolivia (CEJIS, CITRMD), Brazil (EAPIL/CIMI) and Venezuela (WATANIBA) are in the process of developing their methodologies for the recognition of PIA.
4. Ecuadorian NGOs (FEPP, LIL) do not have their own methodology for the recognition (and protection) of PIA. FEPP made a compilation of the actions developed by the State, but this work is not public.
5. In Peru, NGOs, in accordance with current regulations, are required to comply with the official indirect methodology established by the State, in the process of preparing the “Preliminary Recognition Studies” and the “Additional Categorization Studies” required by law, following the methodology defined by the Ministry of Culture. The NGOs WWF, IBC, CEDIA, among others, developed the EPR for the State, based on a public bidding process, following the methodology defined by the Ministry of Culture/Vice-Ministry of Interculturality. However, these NGOs do not have their own methodologies and systematization.<sup>109</sup>

Regarding PIA recognition methodologies developed by indigenous peoples and organizations in each of the seven countries, the following stand out:

1. Civil society organizations in Bolivia, Brazil, Colombia, Ecuador, Paraguay, Peru and Venezuela, which carry out recognition, identification and protection actions, accept the existence of indigenous protocols for the identification and protection of PIA. These protocols, not yet systematized in writing, derive from oral tradition, ancestral wisdom and the millenary relationship among native peoples. It is possible to find tiny fragments of records in a few published documents that refer to these indigenous protocols.
2. In Peru alone, indigenous organizations have systematized methodologies for the recognition of PIA. The ILPe provides information on the

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<sup>109</sup> In the process of categorizing the Madre de Dios Indigenous Reserve, the Ministry of Culture carried out technical work for the recognition of the Mashco Piro people, in the absence of effective communication with FENAMAD. For the preparation of this proposal, the Ministry of Culture hired the non-governmental organization WWF. The collection of field information and the preparation of the corresponding file for the categorization of the area was carried out without the participation of or effective communication with FENAMAD. On several occasions during the process, the federation requested information on progress, as well as technical expert input in the analysis and discussion phase, but these requests were not met. FENAMAD only had access to the text of the document prepared when it was about to be submitted to the Multisectoral Commission (Law 28736) charged with evaluating and approving it (ILPe, 2024, p. 9).

processes of identification and recognition of PIA, as requested by FENAMAD and admitted by the Ministry of Culture, referring to the Mashco Piro, Yora and Amahuaca peoples in isolation (Madre de Dios Territorial Reserve), as well as peoples in isolation in the geographic area of the Bahuaja Sonene National Park and Tambopata National Reserve, in the face of threats, among others, from hydrocarbon and mining activities; thus resulting in technical documentation for the opening of a recognition process, which is still pending.

The methodology for the recognition of PIA by the indigenous organization (FENAMAD) is unprecedented. Even before the legislation enacted by the Peruvian State (Law 28736<sup>110</sup> –known as the PIACI Law–) and its regulations<sup>111</sup>), FENAMAD was already developing field research for the identification and recognition of PIA. With the institutionalization of the aforementioned law, FENAMAD’s methodology underwent adaptations so that its requests could be accepted within the scope of the Ministry of Culture/Vice-Ministry of Interculturality.

In Peru, all requests for identification and recognition of PIA, admitted by the Ministry of Culture/Vice-Ministry of Interculturality, originated from requests by indigenous organizations.

3. Those States that have a relevant legislation for the identification and recognition of PIA do not accept indigenous protocols for such purpose. At most, they allow the participation of national representative indigenous organizations in governing bodies, but in unfavorable numbers, so their right to speak is defeated/silenced.
4. The relations of Contacted Indigenous Peoples with PIA derive from the practices, coexistence protocols and policies for the protection and maintenance of the life of these peoples. These practices are the result of ancestral knowledge perpetuated over millennia, conveyed through oral tradition, and deeply rooted in their intrinsic experience with their territories and networks of relationships.
5. Relations between isolated and non-isolated indigenous peoples have existed since before the first contacts with colonizing society. Coexistence in large territories, with the presence of different peoples, customs and ways of life and territorial occupation, is only possible to this day due to the behaviors, protocols and agreements of living and existing in these territories.
6. The protection of peoples in isolation has always been a central part of these rules and behaviors, as everyone’s way of life has been surrounded by mutual respect, fear and protection. When talking about protection, we must understand that both sides are protected: those who consider themselves in isolation and those who believe to have been isolated from them. In the practice of self-protection, uncontacted peoples are seen by

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<sup>110</sup> Law for the Protection of Indigenous or Native Peoples in Isolation and Initial Contact.

<sup>111</sup> Supreme Decree 008-2007-MIMDES, as amended in 2016 by Supreme Decree 008-2016-MC.

contacted groups as the most powerful, strongest and strategic to survive in the vast forests they occupy (ILBr, 2024, p. 29).

7. For many indigenous peoples, the connection to spirituality, nature and territory is the explanation why they continue to be protected from the contact pressure that has always existed from non-indigenous groups. The knowledge and relationships between indigenous peoples who work daily to protect and those who resist contact are complex and wide-ranging.

Based on this context, this Regional Methodology Report (IRM) contains principles and guidelines for recognizing the existence of indigenous peoples in isolation in South America. States, indigenous organizations and civil society organizations, when adopting such principles and guidelines, should take into account the national legal rules and conventional compliance based on international standards governing the matter, respecting the right to self-determination and the principles that safeguard the individual and collective life systems of PIA, whose physical and cultural survival is subject to highly vulnerable situations.

The effective protection of PIA and the commitment of all agents to this task requires a redefinition of the institutional framework by States, to offer differentiated treatment for the prevention, protection, recognition and strengthening of these subjects of rights who, subjected to highly vulnerable conditions, still insist on maintaining their existence.



## 2.3 Objectives

### 2.3.1 *General Objective*

Propose principles and guidelines for the formulation of methodologies for recognizing the existence of PIA, whether a group or people, or a segment thereof, in a given context and specific territory, based on experiences developed in South America.

### 2.3.2 *Specific objectives*

- \* Establish methodological research guidelines for the recognition of PIA that ensure the exercise of their self-determination, the protection of their territories and the preservation of their life systems, based on national regulations and conventional compliance with international regulations.
- \* Establish the principles, criteria, strategies, behaviors and procedures to be implemented for the definition of methodological guidelines for the recognition of PIA, whether a group or people, or a segment thereof, in a given context and specific territory.
- \* Define the strategies and instruments for inspections, verification or determination analysis, geo-referenced instrumental analysis, visits to nearby places or *on-site* visits, supporting documentation analysis and interviews, as a basis for the application of legal mechanisms in each country with a presence of PIA.
- \* Promote the effective participation of indigenous peoples and their representative organizations in public spaces for the definition, implementation and social control of public policies for recognizing the existence of PIA, respecting their own protocols and ancestral knowledge, derived from their worldviews.
- \* Promote the effective participation of civil society organizations working on the topic of PIA in public spaces for the definition, implementation and social control of public policies for the recognition of PIA.
- \* Contribute to multilateral organizations with methodological inputs for the definition of guidelines for the recognition of PIA, so that they can guide their member States in the definition and implementation of public policies for the recognition of PIA and their corresponding rights.



## 2.4 Justification

The rights of PIA, recognized in some States, are the result of a long struggle by indigenous organizations and civil society, and by sectors of some States, based on the principle of no contact, as a prerogative of self-determination.

The current regional initiative of the GTI PIACI to develop such an instrument is significant on several levels. First, because it focuses on one of the key issues in the regional context of the protection of these peoples: according to data compiled in this IRM, at present, of the 188 records of peoples in isolation in South America, only 60 of them have been officially recognized, while the recognition of 128 is still pending. This situation means that a large majority of peoples in isolation on the continent are denied their legal existence as subjects of rights.

Secondly, the process initiated aims to strengthen existing international standards on the recognition of peoples in isolation, as well as to identify gaps in their implementation in the different national contexts. And third, it contributes to generating spaces for discussion on technical aspects aimed at consolidating criteria and practices at the methodological level in the region.

Finally, it should contribute to argue and defend the legitimacy of the principle of no contact and the right to self-determination in the recognition and protection of peoples in isolation, given that in some contexts this is becoming an issue of strong political significance, subject to misrepresentation and manipulation by actors opposed to the protection of PIACI. This is the case in several regions of the Peruvian Amazon, where sectors of the State itself and extractivism question the legitimacy of the technical studies carried out, arguing that they lack “scientific” validity. The rallying of such ideas is being used to hinder the development of processes for the recognition of peoples and the creation of indigenous reserves, resulting in modifications in proposals for legislation and political changes to disarm the PIACI protection framework and singling out PIACI defenders as enemies of progress (ILPe, 2024, p. 3).

This IRM highlights the importance and justifies the existence of indigenous practices and protocols for the coexistence, protection and recognition of PIA. These protocols are based on the wisdom of their networks of millenary relationships experienced in the vast territories shared by or neighboring the territories of PIA, which make up their cosmologies.

Finally, it has been verified that of the seven South American countries with records of PIA, only two have protocols for their recognition, approved by laws or decrees. Of the remaining five, one reports that it is in the process of preparation and four of them (of which two do not recognize the existence of PIA) have no prospects of preparing protocols for the recognition of the existence of these indigenous peoples.

## 2.5

### Scope and enforcement authority

This IRM, by setting out principles and guidelines for the recognition of a specific PIA, provides preventive guidance to any person outside the group who, in the fulfillment of their legal duties, must comply with the preventive, protective and recognition provisions within the territories and their areas of influence occupied, or allegedly occupied, by peoples, nations, groups, or any part of them, in isolation.

Likewise, it extends to the personnel of public and private entities who, in the exercise of their functions or activities permitted by the relevant legislation, are faced with evidence, of any kind, that has originated by indigenous groups or peoples, or any part of them, in isolation.

At the state level, competent sectors should be created for the recognition, identification, monitoring, surveillance, territorial definition and implementation of public policies and social control, linked to the entities in charge of the matter. These sectors must have an authority established by human and financial resources for the implementation of public policies and, in the case in question, structural conditions to strengthen the methodology for recognizing the existence of PIA. In the context of defining, implementing and monitoring public policies for PIA, it is imperative to consider the equal participation of indigenous organizations and civil society organizations working to protect PIA.

Based on the international and national regulatory framework provided in this report, the States should

adopt specific legislation and regulations, if they do not already exist, on the protection of the rights of Indigenous Peoples in Isolation and Initial Contact, 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, p. 80).

## 2.6 Scope

This IRM is aimed at any person outside the indigenous group in isolation, and at public or private entities that, in the exercise of their legally established functions or activities, promote actions for the recognition of a specific indigenous people in isolation, or any part of them, within the scope of their territories (recognized or not by the States) in South America.



## 2.7

# International human rights regulatory framework applicable to the protection of PIACI<sup>112</sup>

PIACI have specific rights by virtue of their particular conditions and in accordance with the recognitions made in international law, but as the guidelines<sup>113</sup> and multiple international human rights organizations point out, they also have universally recognized human rights, as well as the rights differentially recognized to indigenous peoples, as can be seen below.

### General

- \* Universal Declaration of Human Rights.
  - > Right to life, Article 3.
  - > Right to health, Article 25d.
- \* International Covenant on Civil and Political Rights.
  - > Right to self-determination, Article 1.
  - > Right to life, Article 6.
  - > Rights of minorities to maintain their way of life, Article 27.
- \* International Covenant on Economic, Social and Cultural Rights.
  - > Right to self-determination, Article 1.
  - > Right to health, Article 12.
  - > Right to culture, Article 15.
- \* Convention on the Elimination of All Forms of Racial Discrimination (Committee on the Elimination of Racial Discrimination).
  - > Committee on the Elimination of Racial Discrimination.
- \* General Recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

The Committee on the Elimination of Racial Discrimination is currently debating a draft General Recommendation 37 on racial discrimination in the enjoyment of the right to health.<sup>114</sup>
- \* Convention on the Elimination of Discrimination against Women (Committee on the Elimination of Discrimination against Women).

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<sup>112</sup> Based on local reports from seven countries.

<sup>113</sup> Section III of the guidelines: Human Rights of Indigenous Peoples in Isolation and Initial Contact: Regulatory Framework, paragraphs 18–40.

<sup>114</sup> See “First Draft General Recommendation No. 37 on Racial Discrimination in the Enjoyment of the Right to Health”, <https://www.ohchr.org/es/documents/general-comments-and-recommendations/first-draft-general-recommendation-no-37-2023-racial>.





- > Committee on the Elimination of Discrimination against Women.
  - > General Recommendation 37 (2018) on the gender dimensions of disaster risk reduction in the context of climate change.
  - > General Recommendation 34 (2016) on the rights of rural women.
- \* Convention on the Rights of the Child (Committee on the Rights of the Child).
- \* American Convention on Human Rights.
  - > Right to life, Article 4.
  - > Right to personal integrity, Article 5.
  - > Right to a fair trial (Article 8), Freedom of conscience and religion (Article 12) and Freedom of thought and expression (Article 13).
  - > Right to start a family, Article 17 , Right of children, Article 19, and Right to freedom of movement and residence, Article 22.
  - > Political Rights, Article 23.
  - > Right to equality before the law, Article 24, and Right to their territories (through the right to property), Article 21.
  - > Right to legal protection, Article 25.
  - > Economic, social, cultural and environmental rights, Article 26.
- \* Inter-American Commission on Human Rights.
  - > Resolution 3 of 2021. Climatic emergency. Inter-American and human rights scope and obligations.
- \* San Salvador Protocol.
  - > Right to health, Article 10, and Right to a healthy environment, Article 11.
  - > Right to food, Article 12, and Right to culture, Article 14.
- \* United Nations Convention on the Prevention and Punishment of the Crime of Genocide.
- \* Convention Concerning the Protection of the World Cultural and Natural Heritage.<sup>115</sup>
- \* Specific for Indigenous Peoples.
  - > Convention 169 of the International Labor Organization.<sup>116</sup>

<sup>115</sup> See “Convención sobre la protección del patrimonio mundial, cultural y natural”, <https://whc.unesco.org/archive/convention-es.pdf>.

<sup>116</sup> In exercising the right to self-determination, peoples in isolation are deemed to have made the decision not to use participation and consultation mechanisms. “Guidelines for the Protection of Indigenous Peoples in Isolation and Initial Contact of the Amazon Region, Gran Chaco and the Eastern Region of Paraguay” (2012), paragraph 68. “It is not possible to carry out a prior, free and informed consultation in accordance with the standards established by the Inter-American Commission and Court of Human Rights, in relation to development and investment projects and extractive concessions of natural resources that affect the rights of indigenous peoples in voluntary isolation [...]. The Commission

- > Right to participation, Article 7, and  
Right to preserve one's own customs and institutions, Article 8.
- > Right to lands and territories, Articles 13-19.
- > Right to consultation, Articles 6, 16, 14, and  
Right not to be removed from lands occupied, Article 16.
- > To health, Article 25.
- > To the adoption of special measures for the safeguarding of  
indigenous persons and institutions, Articles 2-5.
- \* United Nations Declaration on the Rights of Indigenous Peoples.
  - > Right to self-determination, Articles 3, 4, 5.  
Right to territory, Articles 10, 26, 27, 28, 29, 30 and 32.  
Right to culture, Articles 8, 9, 11, 12, 13, 14, 15 and 16.  
Right to life, health and integrity, Articles 7, 10, 21 and 24.
- \* Declaration of the Organization of American States on Indigenous Rights.
  - > Right to self-determination, Article III.
  - > Collective rights, own institutions and cultures, lands, territories and resources, Article VI.
  - > Rejection of assimilation, Article. X.
  - > Protection against genocide, Article XI, and  
Right to cultural identity and integrity, Article XIII.
  - > Right to health, Article XVIII,  
Right to the protection of a healthy environment, Article XIX,  
Right to traditional forms of property and cultural survival,  
Article XXV,  
Right to peace, security and protection, Article XXX,  
Right to life, lands and territories, environment, Article XXVI  
and  
Right to voluntary isolation and to live freely and in accordance with their cultures, Article XXVI.
- \* Convention on the Elimination of All Forms of Racial Discrimination.
  - > Committee on the Elimination of All Forms of Racial  
Discrimination.
  - > General Observation 23 on the rights of indigenous peoples.
- \* Convention on the Elimination of Discrimination against Women (Committee on the Elimination of Discrimination against Women).
  - > Committee on the Elimination of Discrimination against Women.
  - > General Recommendation 39 (2022) on the rights of  
indigenous women and girls.

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considers that, in accordance with the *pro persona* principle and assuming the principle of no contact as a fundamental condition, the main factors to consider when analyzing whether or not peoples in voluntary isolation give their consent to the presence of people from outside their community in their ancestral territories are 1) the express rejection of the presence of people from outside their community in their territories, and 2) their decision to remain in isolation from other communities and people (IACHR, 2013, paragraph 25).

## Specific for PIACI

- ★ Guidelines for the Protection of Isolated and Recently-Contacted Indigenous Peoples in the Amazon Region, Gran Chaco and the Eastern Region of Paraguay, of the Office of the United Nations High Commissioner for Human Rights (2012).
  - > Right to self-determination, paragraphs 22, 47-52.
  - > Right to territory, paragraphs 23, 53-61 and 74.
  - > Right to culture, paragraph 24.
  - > Right to health, paragraphs 62-65.
  - > Right to participation, consultation and free, prior and informed consent, paragraphs 66-69 and 91.

The OHCHR (2012) establishes the general framework for the development and implementation of PIACI protection policies, in accordance with international rights standards. This instrument contains some conceptual and methodological elements of reference for identifying the existence of peoples in isolation and initial contact, guaranteeing respect for their rights.

First, the identification and recognition of PIA is considered a priority action to establish protection measures:

The first important issue is the recognition by States of the existence of indigenous peoples in isolation and the establishment of a willingness on the part of all actors to take measures to protect their rights. The analysis of the situation of indigenous peoples in isolation or initial contact must prioritize the objective and duly supported assessment of the existence of these peoples (paragraph 68).

It also incorporates the obligation of States to promote the identification of PIACI with the necessary technical capabilities:

The State, through its specialized technical agencies, should implement the necessary mechanisms so that, through multidisciplinary and scientifically rigorous studies, it can address and adopt decisions concerning the identification of indigenous peoples in isolation or initial contact, as well as the establishment of indigenous reserves in their favor (paragraph 69).

On the other hand, the guidelines point out that the work of identifying the existence of PIACI is not the exclusive task of government institutions. On the contrary, methodologies to be implemented should include the participation of key actors in civil society, particularly indigenous organizations:

In order to carry out these preliminary recognition studies, States should involve national, regional and local indigenous organizations and civil society organizations working for the protection of peoples in isolation (paragraph 10).



The guidelines clearly establish the basic premises for the development of research work in the territory. This means that, such actions must be carried out in compliance with the principle of no contact and, therefore, through “indirect actions” that mitigate as much as possible the risks of contact between the research team and the people in isolation:

When it is necessary to identify the existence of these peoples, such as, for example, the demarcation of lands or the delimitation of buffer zones, the only actions that should be undertaken for their identification are indirect actions [...]. The principle of no contact must always be assumed as a fundamental condition when carrying out these actions (paragraph 10).

The OHCHR defines “indirect actions” as follows:

Indirect action means various types of actions, among which we can mention: aerial photographs of their campsites, visits to abandoned campsites, evidence of steps, abandoned contraptions, accounts of contacts told by nearby peoples or testimonies of indigenous people who for one reason or another ceased to be in isolation or the historical series of geo-referenced information (paragraph 10, footnote).

In addition, the guidelines develop some of the basic elements that should be included in PIACI identification and recognition studies, framed within the aforementioned indirect methodology. One of the questionable points for recognition studies is the definition of a time limit for evidence, established in the guidelines, within a period of no more than three years from the time of documentation (paragraph 10). This timeframe was adopted in the regulations of Peru’s 2006 PIACI Law (Supreme Decree 008–2007–MIMDES, as amended in 2016 by Supreme Decree 008–2016–MC), which Article 15, “Content of the Preliminary Recognition Study,” is reproduced verbatim in the text of the guidelines. In this regard, the question arises as to whether in practice it is possible to comply with the deadline for data validity, especially considering the long delays that characterize the processes of recognition of peoples in isolation and categorization of their territories. On the other hand, the knowledge of indigenous peoples to identify evidence of indigenous peoples in isolation and the new technologies developed by archaeology and remote sensing/geo-processing allow us to date this evidence for periods much longer than three years.

Paragraph 10. States shall conduct preliminary recognition studies, which shall include an anthropological analysis containing studies on oral tradition in the area of influence, kinship relations with possible nearby communities and physical evidence, with a registration period of no more than three years, found by a technical fieldwork team that supports the existence of a people in isolation or initial contact. Likewise, the EPR must identify the people and indicate an estimate of their population and the lands they inhabit (Supreme Decree 008–2016–MC, Article 15).



The guidelines, based on evidence of the existence of PIA, reinforce the principle of no contact:

Paragraph 11. Non-contact should in no case be considered as proof of the non-existence of these peoples.

- \* The IACHR report (2013) emphasizes, in paragraph 21: A. Self-determination and principle of no contact:

Paragraph 21. [...] If unwanted contact is eliminated, most threats are eliminated and respect for the rights of such peoples is guaranteed. Therefore, in the Commission's opinion, it is essential that any effort to strengthen this respect be fundamentally governed by the principle of no contact, and that contact should only take place when encouraged by peoples in isolation. [...] For indigenous peoples in voluntary isolation and initial contact, the right to self-determination has a direct and profound relationship to the rights to their lands, territories and natural resources.

- \* Report *Situation of human rights of the indigenous and tribal peoples of the Pan-Amazon region* (IACHR and OAS, 2019). Chapter 4 is dedicated to Indigenous Peoples in Voluntary Isolation and Initial Contact in the Amazon (pp. 153-194).
- \* American Declaration on the Rights of Indigenous Peoples.

Article XXVI. Indigenous peoples in voluntary isolation or initial contact  
1. Indigenous peoples in voluntary isolation or initial contact have the right to remain in such condition and to live freely and in accordance with their cultures.

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.

- \* Amazon Cooperation Treaty Organization (ACTO) (2011-2023): in the context of the Protection of Peoples in Isolation and Initial Contact in the Amazon Region, ACTO has implemented three projects:

1. Strategic Framework Program for the Development of a Regional Agenda for the Protection of Indigenous Peoples in Isolation and Initial Contact (PIACI) (2011-2014).

2. Indigenous Peoples in ACTO Border Regions (2016-2019).

3. Contingency Plan for Health Protection in Highly Vulnerable Indigenous Peoples in Initial Contact (2020-2023).

In the context of the Strategic Framework for the Development of a Regional Agenda on the Protection of Indigenous Peoples in Voluntary Isolation and Initial Contact (2011-2014), the documents “Guidelines for action plans for the protection of indigenous peoples in isolation and initial contact” and “Principles and Guidelines for the Protection of Indigenous Peoples in Isolation and Initial Contact”, published by ACTO. These documents are the result of a consultation process with ACTO member countries (Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela), executed between 2011-2014, implemented and disseminated by the project “Indigenous Peoples in ACTO Border Regions”, with financial support from the Inter-American Development Bank (IDB) and member countries.

In turn, the Convention on Biological Diversity establishes in its Article 8, paragraph j, that each party shall, in accordance with its national legislation, “respect, preserve and maintain the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity”. The Conference of the Parties to the Convention on Biological Diversity has also formulated Decisions such as CDB/COP/VIII/5, which urges States to develop “possible measures to ensure respect for the rights of protected and voluntarily isolated communities”, and CDB/COP/IX/13, which “invites parties to develop appropriate policies to ensure respect for the rights of voluntarily isolated populations living within protected areas, reserves and parks”.

The International Union for Conservation of Nature, within the framework of the World Conservation Congress, held in 2004, issued Recommendation 3056 on indigenous peoples living in voluntary isolation, which recognizes “the need to take immediate action at the national, regional and international levels to develop programs that promote a closer link between the conservation of the nature of the Amazon and Chaco regions and the protection of the lives and territories of indigenous peoples living in voluntary isolation”.

In 2023, the Belém Declaration was adopted, i.e., the document recently signed at the Amazon Summit by the eight signatory countries of the ACTO, under which Venezuela implicitly assumes its responsibility to guarantee the protection of the rights of PIACI.

This agreement, signed by Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela, is aimed at protecting the Amazon and its indigenous peoples, and obliges each of the State Parties, with respect to PIACI, to:

Promote actions to protect and guarantee the human rights of indigenous peoples and their collective rights over their territories and lands located in the Amazon Region, especially indigenous peoples in isolation and initial contact, strengthening available resources and public policies adapted to this region.

Likewise, the agreement states:

Within the scope of the ACTO, strengthening contingency programs and plans for the protection of the health of highly vulnerable

indigenous peoples in initial contact or in a condition of geographical dispersion, with a view to creating a favorable context for the mitigation of threats from pandemics and endemic and emerging tropical diseases, as well as reemerging diseases and those associated with the impacts of climate change.

## **Standards relating to the right to self-determination of PIACI.** **Prevention of forced contact**

The standards established in the Universal System for the Protection of Human Rights (SUDH) have a number of characteristics, which are:

- \* States should ensure that activities that may impact the rights of indigenous peoples living in voluntary isolation are not considered. Where activities in respect of a people are necessary to ensure their welfare or unavoidable, appropriate United Nations and regional safeguards must be complied with.<sup>117</sup>
- \* It is necessary to develop, as soon as possible, the necessary national regulations for the promotion, protection and guarantee of the rights of peoples in voluntary isolation, in strict compliance with ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples adopted by the Human Rights Council.<sup>118</sup>
- \* States should take into consideration the wishes of indigenous peoples living in voluntary isolation or initial contact, in recognition of their greater vulnerability and need for protection.<sup>119</sup>
- \* With regard to indigenous peoples in voluntary isolation, the right to self-determination must be interpreted as a guarantee that their decision to remain isolated will be respected. The denial of their right to self-determination could entail a violation of their right to life. Isolation is a collective preservation strategy, which allows the members of these peoples to maintain their own ways of thinking, cultures, languages and traditions and to survive the threats caused by forced contact with the outside world. The Special Rapporteur on the rights of indigenous peoples defined the principle of no contact as an expression of the right of indigenous peoples to self-determination. This right is complemented by Article 8 of the Declaration, which establishes that indigenous peoples have the right not to be subjected to forced assimilation. Article XXVI of

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<sup>117</sup> See Expert Mechanism on the Rights of Indigenous Peoples. Study: Free, prior and informed consent: a human rights-based approach. A/HRC/39/62 dated August 10, 2018, paragraph 13. <https://documents.un.org/doc/undoc/gen/g18/245/97/pdf/g1824597.pdf?token=rVUkgrnVUO5reFdztm&fe=true>.

<sup>118</sup> See: Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms. Mission to Ecuador. A/HRC/4/32/Add.2 dated December 28, 2006, paragraph 96. <https://documents.un.org/doc/undoc/gen/g07/100/32/pdf/g0710032.pdf>.

<sup>119</sup> Expert Mechanism on the Rights of Indigenous Peoples. Study: The right to health and indigenous peoples, with a special focus on children and youth. A/HRC/33/57 dated August 10, 2016, paragraph 35. <https://documents.un.org/doc/undoc/gen/g16/177/12/pdf/g1617712.pdf>.



the American Declaration on the Rights of Indigenous Peoples specifically provides that indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and according to their cultures, and that the States shall adopt appropriate policies and measures, with the knowledge and participation of the 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.<sup>120</sup>

- \* Although the regulatory regimes of some countries recognize territories or reserves in favor of PIACI, this does not seem to be sufficient to protect these peoples from the presence of various external actors in their territories or in terms of economic development activities promoted by the States themselves. In principle, these activities should be duly regulated in accordance with the international standards applicable to the vast majority of States in the region, including the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), the American Convention on Human Rights and its related jurisprudence, and the Declarations on the Rights of Indigenous Peoples of the United Nations and the OAS.<sup>121</sup>
- \* In the event that people outside a PIACI inhabit land considered critical to them, the use of such land should be prohibited and resettlement should be provided for (OHCHR, 2012, PARA. 59). On the other hand, the criminalization of forced contact is necessary to reinforce the prohibition of intrusion into PIACI territories, particularly in intangible areas (OHCHR, 2012, PARA. 56).

Standards established in the Inter-American Human Rights System (IAHRS):

- \* The principle of no contact is the embodiment of the right of indigenous peoples in voluntary isolation to self-determination. We emphasize that the IACHR has recognized that respect for no-contact, as an exercise of self-determination, is the only way to guarantee the survival of these peoples. One of the reasons for protecting the rights of indigenous peoples in voluntary isolation is cultural diversity, and that the loss of their culture is a loss for all humanity (IACHR and OAS, 2013, PARAGRAPH 22).
- \* Adopt actions aimed at ensuring respect for and guarantee of the principle of no contact of peoples in isolation by any person or group, considering the adoption of protection zones, as well as the prohibition and appropriate sanction of forced contact, including by religious organizations

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<sup>120</sup> Expert Mechanism on the Rights of Indigenous Peoples. Study on efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples. A/HRC/48/75 dated August 4, 2021, paragraph 18.

<sup>121</sup> Special Rapporteur on the Rights of Indigenous Peoples of the United Nations and Rapporteur on the Rights of Indigenous Peoples of the Inter-American Commission on Human Rights. Summary of the working meeting on international law standards on the human rights of indigenous peoples in voluntary isolation and initial contact in the Amazon and Gran Chaco. A/HRC/39/17/Add.1 dated June 27, 2018, paragraph 49.





(IACHR and OAS, 2013, RECOMMENDATION 19).

- \* Adopt decisive measures to strengthen the presence of the State in the Pan-Amazon region, without interfering in the life, customs and traditions of the indigenous peoples living there, yet preventing the arrival and invasion of illegal activity and agents that threaten, harass and endanger the physical integrity of the members of these peoples. The presence of the State is essential to safeguard the life and peace of indigenous peoples in the territory and to avoid illegal activities that go unpunished (IACHR and OAS, 2013, RECOMMENDATION 3).
- \* The IACHR emphasizes that the very fact that the presence of indigenous peoples in isolation is used as a “tourist” attraction undermines respect for their dignity both as subjects of rights, and as peoples and individuals. Full respect for the self-determination of indigenous peoples implies not only respect for their way of life, but also respect for their dignity as human beings, with which it is not compatible for them to be perceived as an attraction or entertainment for non-indigenous societies (IACHR and OAS, 2013, PARAGRAPH 132).

## 2.8

# National regulatory frameworks applicable to the protection of PIACI

Below, we describe the national regulatory frameworks that guide the PIACI protection policy, included in the legal frameworks of the seven South American countries. In countries that do not have such specific policies for PIACI, the principles contained in constitutions, complementary laws or even regulatory laws or laws related to indigenous rights, in general, have been adopted. In this regard, from a comprehensive and articulated approach, these rights are extended and applied to PIA.

This IRM is based on the premise that PIACI enjoy all the human rights contained in international standards.

## Bolivia

Bolivia constitutionally recognizes the rights of PIA, directly in Article 31, from an comprehensive and articulated approach of the constitutional text. These rights are extended and applied to PIA in Article 2.

Political Constitution of the Plurinational State of Bolivia (February 2009)

Article 2 of the Political Constitution of the Plurinational State recognizes the pre-existence and ancestral dominion over the territories occupied and inhabited by indigenous peoples and native nations, and guarantees their right to self-determination, autonomy and self-government.

### Article 2.

Given the pre-colonial existence of the indigenous native peasant nations and peoples and their ancestral dominion over their territories, their *self-determination* is guaranteed within the framework of unity of the State, which consists of their right to *autonomy*, to *self-government*, to their own culture, to the recognition of their institutions and to the *consolidation of their territorial entities*, in accordance with this Constitution and the law [emphasis added].

### Article 31.

I. Native indigenous nations and peoples in danger of extinction, in voluntary isolation and uncontacted, will be protected and their individual and collective ways of life respected.  
II. Isolated and uncontacted indigenous nations and peoples have the right to remain in that condition, and to the legal delimitation and consolidation of the territory they occupy and inhabit.



- \* Law 1257 of 1991 (Ratifies ILO Convention 169).
  - > Administrative Resolution 48 of 2006 of the National Service of Protected Areas.  
The National Service of Protected Areas of Bolivia (SERNAP), of the Ministry of Rural Development, Agriculture and Environment, approved Administrative Resolution 48 of 2006, which declared an area of the Madidi National Park and Integrated Management Natural Area (PNANMI), where the Toromona PIA live in Isolation, as an Toromona Absolute Reserve Comprehensive Protection Intangible Zone (ZRAT).
  - > Law 3760 of 2007, which elevated the United Nations Declaration on the Rights of Indigenous Peoples to the status of State law.
  - > Supreme Decree 1286 of 2012, which provides for a Multidisciplinary Technical Study in the strict protection area of the Kaa Iya National Park and Integrated Management Natural Area, Gran Chaco, and the Pantanal de Otuquis Integrated Management Natural Area, over 536,568 hectares. The purpose was to: 1) identify the presence of Ayoreo groups in voluntary isolation and 2) determine mechanisms to guarantee the exercise of their right to remain in voluntary isolation. In order to prevent any type of disturbance to the Ayoreo group in voluntary isolation, during and until the conclusion of the technical study that determines the presence of the Ayoreo PIA, YPFB will not be able to carry out any exploration or exploitation activity within Hydrocarbon Reserve and Allocation Areas of Interest. The results of the study must be officially released within eighteen months from the approval of the defined methodology and the recruitment of the multidisciplinary team by the Vice-Ministry of Lands of the Ministry of Rural Development and Lands. To date, thirteen years have passed since the enactment of the decree and the study has not been carried out.
  - > Law 450 of 2013. Law for the Protection of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation. Its main objective, expressed in its first article, is to establish mechanisms and sectoral and intersectoral policies for prevention, protection and strengthening to protect and guarantee the livelihood of highly vulnerable PIA, whose physical and cultural survival is extremely threatened. "Because of its guaranteeing nature, such law recognizes the highly vulnerable condition of peoples in voluntary isolation, in addition to their protection to safeguard their rights and survival" (CEJIS, 2021).

The regulations state that the right holders under Law 450 are "the native indigenous nations and peoples, or any segment thereof"; as well as those in danger of extinction,

voluntary isolation, forced isolation, uncontacted, initial contact, in cross-border way of life and other highly vulnerable situations identified by the competent state body.

Such law determines that the no-contact of a native indigenous nation or people, or a segment thereof, shall not be considered, in any case, as proof of their non-existence. The identification of the right holders under this law –says the text– will be the result of procedures carried out at the express request of the native indigenous nations and peoples or any segments thereof, or of specific research conducted by the corresponding state agency (article 2, II and IV).

Article 2 defines the guiding principles for the actions of Native Indigenous Nations and Peoples in a Highly Vulnerable Situation.

In order to fulfill its objectives and provide assistance to highly vulnerable indigenous peoples, it provides for the creation of the General Directorate for the Protection of Native Indigenous Nations and Peoples (DIGEPIO), under the supervision of the Executive Branch. The functions would be aimed at carrying out the technical procedures for the identification of rights holders; formulating and executing in coordination with the autonomous territorial entities, within the framework of their competencies, with organizations of the native indigenous nations and peoples, plans, programs, projects and strategies for prevention, protection and strengthening to safeguard the life systems. Other activities and programs described in the law include conducting comprehensive preliminary studies, recognition protocols and interdisciplinary analyses to identify situations of high vulnerability of indigenous nations and peoples or segments thereof, and developing monitoring indicators to assess situations of high vulnerability (Article 4, II, subparagraphs 2, 7, 8, 12 and 14) (CEJIS, 2021).

- > Law 033 of 2019, dated May 9, 2019. The Guaraní de Charagua Iyambae Indigenous Autonomous Government enacted Law 033 of 2019, in accordance with DD. SS. 1286, which creates the Ñembi Guasu Conservation and Ecological Importance Area, comprising 1,204,635 hectares, located between the Kaa Iya and Otuquis protected areas, thus forming a continuous natural corridor between Chaco and Pantanal, which favors the protection and transit of the Ayoreo groups in voluntary isolation in the cross-border area where they live and develop their way of life; this area covers approximately 1,900,000 hectares (CEJIS, 2021).
- > Supreme Decree 4793 of 2022, which regulates Law 450 for the Protection of Indigenous Nations and Peoples in a Highly Vulnerable Situation. The regulation provides for the operation of



the DIGEPIO, which will depend on the Vice-Ministry of Native Indigenous and Peasant Justice and is within the Ministry of Justice and Institutional Transparency, in order to implement the powers set forth in Law 450. This institution will be headed by a general manager appointed by the minister of Justice and Institutional Transparency, and will have an operational level.

In order to develop appropriate protection and safeguarding actions, including the participation of the populations involved, the DIGEPIO will coordinate with the owners or those responsible for development or intervention activities, works and projects nearby or in the territories of highly vulnerable native indigenous nations and peoples, providing as many details as possible, as well as the development of the activities of such entities (DD. SS. 4793, Article 8, I and III).

For the identification of native indigenous nations and peoples, or any segments thereof, whose physical and cultural survival is extremely threatened, the DIGEPIO shall consider at least the following identification criteria: 1) population, territory and ancestry criteria,<sup>122</sup> 2) socio-cultural identity criteria and 3) technical criteria.<sup>123</sup>

In the case of native indigenous nations and peoples uncontacted or in voluntary isolation, the criteria indicated in subparagraphs 1 and 3 of the previous paragraph shall be initially applied, in addition to the methodologies for research or survey of socio-cultural information under international standards, ensuring the exercise of the self-determination of the nation or people, the protection of their territory and the preservation of their way of life (Article 9, I and II).

The procedure for the identification of a native indigenous nation or people, or any segments thereof, in a highly vulnerable situation, may be at the express request of: 1) the authorities of the native indigenous organization that have a national organizational structure and have a direct socio-cultural relationship with the nation or people under protection,

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<sup>122</sup> The criterion of population, territory and ancestry concerns the identification of a human community that shares cultural identity, language, historical tradition, democratic institutions, territory and territoriality, worldview, unique rules and procedures, whose existence predates the Spanish colonial invasion. For the purposes of prevention, protection and strengthening of a nation or people in a highly vulnerable situation, their demographic situation, culture, political and legal system, organizational structure, democratic institutions, rituals, development, self-determination and life experiences shall be taken into account.

<sup>123</sup> The technical criterion corresponds to research, technical studies, direct actions, indirect actions, field surveys, participant observation and other tools used to establish the categorization of a native indigenous nation or people under protection by context, their degree of vulnerability, as well as the determination of the need or measure required.

2) the autonomous territorial entities or other public institutions and 3) ex officio by the DIGEPIO, based on specific research conducted institutionally or in coordination with other public agencies (Article 10, I).

Upon receiving the respective request or ex officio, the DIGEPIO will carry out a preliminary assessment of the case and will request the competent institutions, if applicable, to form a multidisciplinary and inter-institutional team to assist in the identification of the native indigenous nation or people, or any segment thereof.

The identification concludes with a report from the DIGEPIO that, in addition to reflecting the situation of vulnerability, recommends the implementation of necessary actions and strategies, where appropriate.

In the case of a native indigenous nation or people uncontacted or in voluntary isolation, the identification carried out shall in no case affect their life systems; the DIGEPIO shall apply the use of appropriate research methodologies in accordance with the standards for the protection of these populations (Article 10, II, III and IV).

The Committee for the Protection of Vulnerable Native Indigenous Peoples (CPPIOSV) will be headed by the Minister of Justice; this committee is made up of the Ministries of Education; Health and Sports; Rural Development and Lands and Cultures, Decolonization and Depatriarchalization. Its task will be to address problems related to their respective portfolios and the DIGEPIO will act as CPPIOSV's Technical Secretariat.

Finally, it establishes the protocols for multidisciplinary work, contemplating the components of specialization necessary to guarantee the prevention, protection and strengthening of a native indigenous nation or people identified as highly vulnerable.<sup>124</sup>

Within this regulatory framework, Ministerial Resolution RM-Z-125-2022 dated December 9, 2022, "Protocol for the prevention, protection and strengthening of indigenous nations and peoples in a highly vulnerable situation" was issued.<sup>125</sup> The main objective of this regulation is to contribute to the implementation of actions to establish prevention, protection and

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<sup>124</sup> If necessary, the DIGEPIO will propose the declaration of highly vulnerable life systems for the protection of indigenous nations or peoples in a highly vulnerable situation, so that the competent ministries or public entities can coordinate and cooperate in the implementation of actions and measures of prevention, protection and strengthening in their favor (Article 12, II).

<sup>125</sup> Ministerial Resolution MJTI-DGAJ-RM-Z-125-2022. See [https://www.justicia.gob.bo/cms/files/RM-Z-125-2022\\_pn0x3vyo.pdf](https://www.justicia.gob.bo/cms/files/RM-Z-125-2022_pn0x3vyo.pdf).

strengthening mechanisms to safeguard the systems and individual and collective ways of life of indigenous nations and peoples in a highly vulnerable situation, whose physical and cultural survival is extremely threatened. To this end, a multidisciplinary team will be formed, which will include a legal team, a social and community management team, a health team and a research, science and technology team.

The prevention criterion is aimed at detecting, at an early stage, factors of illness, health or weakening, socio-cultural or environmental effects, and conditions of cultural loss or disappearance. These mechanisms define measures and actions to reestablish, mitigate and contain the causes that affect the livelihoods of highly vulnerable indigenous nations and peoples.<sup>126</sup>

- Ministerial Resolution RM-131-2022. On December 13, 2022, Ministerial Resolution RM-131-2022 “Protocol for the identification and registration of indigenous nations and peoples in a highly vulnerable situation” came into force,<sup>127</sup> with the purpose of identifying and registering these indigenous peoples. It also establishes that an interdisciplinary, legal, social, health and research team will be created to gather information for the identification of a highly vulnerable indigenous nation or people, or any segment thereof, to be considered in the process. The Ministerial Resolution establishes a procedure to create a technical record of registered indigenous peoples in isolation; to this end, it establishes a registration methodology that initially identifies the name or denomination of the highly vulnerable native indigenous people, the characterization, the relevant needs detected in the diagnosis, any necessary response measures, monitoring, follow-up and other necessary steps.

## **Brazil**

### **Constitution of the Federative Republic of Brazil, 1988**

The constitutional rights of indigenous peoples are expressed in a specific chapter of the 1988 Constitution (Title VIII, “Social Order”, Chapter VIII, “Indigenous Peoples”), in addition to other provisions scattered throughout the text and an article of the Transitional Constitutional Provisions Act.

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<sup>126</sup> In addition to prevention and awareness-raising, it establishes that the DIGEPIO, in coordination with central State institutions, will implement a Comprehensive Monitoring System (SIM) to protect indigenous nations and peoples in a highly vulnerable situation.

<sup>127</sup> See “Resolución ministerial”, [https://www.justicia.gob.bo/cms/files/RM-Z-131-2022\\_ai2tj3l0.pdf](https://www.justicia.gob.bo/cms/files/RM-Z-131-2022_ai2tj3l0.pdf).



These rights are marked by at least two important conceptual innovations in relation to previous constitutions and the so-called Indian Statute. The first innovation is the abandonment of an assimilationist perspective, which understood indigenous people as a transitory social category, doomed to disappear. The second is that the rights of indigenous peoples over their lands are defined as native rights, i.e., prior to the creation of the State itself. This stems from the recognition of the historical fact that the indigenous people were the first occupants of Brazil. Thus, the new Constitution establishes new milestones in the relationship between the State, Brazilian society and indigenous peoples.

Articles 231 and 232 guarantee respect for their social organization, customs, languages, beliefs and traditions. For the first time, Brazil recognizes the right of indigenous peoples to be different; i.e., to be indigenous and to remain as such indefinitely. It also guarantees the native rights of indigenous peoples over the lands they traditionally occupy. This means that they predate the creation of the State itself, existing independently of any official recognition.

The current text also elevates to constitutional status the very concept of Indigenous Land, defined in paragraph 1, Article 231 of the Constitution.

There are certain elements, therefore, that define a land as indigenous. Once these elements are present, which will be determined in accordance with indigenous uses, customs and traditions, the right to the land on the part of the society occupying it exists and is legitimized independently of any constituent act. In this regard, the demarcation of an Indigenous Land, as a result of the recognition made by the State, is a merely declaratory act, which objective is simply to specify the actual extent of possession to ensure the full effectiveness of the constitutional provision. The obligation to protect Indigenous Lands lies with the federal government.

In this regard, based on a comprehensive and articulated approach to the constitutional text, these rights are extended and applied to PIA.

Article 231. Indigenous peoples are recognized for their social organization, customs, languages, beliefs and traditions, and their native rights over the lands they traditionally occupy, and it is the responsibility of the Union to demarcate them, protect them and ensure respect for all their property.

§ 1 The lands traditionally occupied by indigenous peoples are those permanently inhabited by them, those used for their productive activities, those indispensable for the conservation of the environmental resources necessary for their well-being and those necessary for their physical and cultural reproduction, according to their uses, customs and traditions.

§ 2 The lands traditionally occupied by indigenous peoples are intended for their permanent possession, and they are entitled to the exclusive usufruct of the riches of the soil, rivers and lakes existing therein.





§ 3 The use of water resources, including energy potential, research and exploitation of mineral wealth on indigenous lands, may only be carried out with the authorization of the National Congress, after a hearing with the affected communities, and they are guaranteed participation in the results of extraction, in accordance with the law.

§ 4 The lands referred to in this article are inalienable and unavailable, and the rights thereon are imprescriptible.

§ 5 The expulsion of indigenous groups from their lands is prohibited, except *ad referendum* of the National Congress, in the event of a catastrophe or epidemic that endangers their population, or in the interest of the country's sovereignty, after deliberation by the National Congress, guaranteeing, in any case, their immediate return as soon as the risk ceases.

§ 6 Acts aimed at the occupation, control and possession of the lands referred to in this article, or the exploitation of the natural wealth of the soil, rivers and lakes existing therein are null and void, except for reasons of public interest of the Union, in accordance with the provisions of a complementary law, not generating nullity and extinction the right to compensation or actions against the federal Government, except, in accordance with the law, in respect of improvements derived from occupation in good faith.

§ 7 The provisions of Article 174, § 3 and § 4 do not apply to indigenous lands.

Article 232. The indigenous people, their communities and organizations are legitimate parties to go to court in defense of their rights and interests, with the Public Ministry intervening in all acts of the proceeding.

- \* Law 2889 dated October 1, 1956 (defines and punishes the crime of genocide).
- \* Law 5371 of 1967. Authorizes the creation of the National Foundation of Indigenous Peoples (FUNAI) and establishes other provisions.

Article 1 The Federal Government is hereby authorized to establish a foundation, with separate assets and legal status under private law, under the terms of civil law, referred to as "Fundação Nacional dos Povos Indígenas", for the following purposes: Section VII. Exercise police power in reserved areas and in matters relating to the protection of indigenous peoples.

- \* Law 6001 dated December 19, 1973 (whereby the Indian Statute is regulated). "Indian Statute" means Law 6001 of 1973, which establishes the relations of the State and Brazilian society with indigenous peoples. In general terms, the statute followed a principle established by the old Brazilian Civil Code (of 1916): that indigenous people, being "relatively

incapable,” were to be protected by a state indigenist agency (from 1910 to 1967, the Indian Protection Service (SPI); today FUNAI), until they were “integrated into the national communion,” i.e., into Brazilian society.

The 1988 Constitution breaks this centuries-old tradition by recognizing the right of indigenous peoples to maintain their own culture. The assimilationist perspective, which understood indigenous people as a transitory social category to be incorporated into the national community, is abandoned.

- \* The Constitution does not mention guardianship or an indigenous body, but maintains the union’s responsibility to protect and guarantee respect for indigenous rights. Although the Constitution does not expressly refer to civil capacity, Article 232 of the Constitution recognizes procedural capacity by stating that “indigenous peoples, their communities and organizations are legitimate parties to file a suit in defense of their rights and interests”. This means that indigenous people can even take legal action against the State itself (their alleged guardian).
- \* *Porteria conjunta* 774/N dated July 12, 1982. Prohibits the acquisition, use and dissemination of alcoholic beverages to indigenous people in indigenous areas throughout the national territory.
- \* Law 7209 dated July 11, 1984. It includes, in the Brazilian Criminal Code, genocide committed by Brazilians or persons residing in Brazil.
- \* *Porteria conjunta* N 913/N dated August 6, 1984, which approves the timeframe for the occurrence and seizure of hunting and fishing artifacts and products in indigenous areas.
- \* *Porteria conjunta* 1263 dated August 1, 1986: establishes procedures for the seizure of goods removed from indigenous areas without authorization from FUNAI, by a public servant or by an authorized or summoned police officer.
- \* FUNAI *Porteria conjunta* 1900 dated July 6, 1987, reissued by FUNAI *Porteria conjunta* 281 of 2000. Establishes principles and guidelines for the protection of isolated indigenous peoples. Some of them are:
  1. To guarantee the isolated indigenous peoples the full exercise of their freedoms and traditional activities.
  2. The verification of the existence of isolated indigenous peoples does not necessarily determine the obligation to contact them. Specific and differentiated protection systems will be created according to the situation of each case.
  3. To promote systematic field actions aimed at geographically mapping and obtaining information on isolated indigenous people.
  4. The lands inhabited by isolated indigenous peoples will be guaranteed, secured and protected in their physical boundaries, natural wealth, fauna, flora and springs.
  5. The health of isolated indigenous communities, considered a priority, will be given special attention due to its specificity.
  6. The culture of isolated indigenous peoples in its various forms of manifestation will be protected and preserved.



Credit: FUNAI





7. Prohibit any and all economic and commercial activities within the area inhabited by isolated indigenous peoples.
  8. Determine that the formulation of the specific policy for isolated indigenous peoples and its enforcement, regardless of its source of funds, will be developed and regulated by FUNAI.
  9. The coordination of isolated indigenous peoples will be in charge of promoting the standardization and detailing of this *Portería conjunta*.
- \* FUNAI *Portería conjunta* 1047 dated August 29, 1988. Approves, regulates and establishes the rules of the Isolated Indigenous Protection System (SPII).
  - \* Regulatory Instruction 02 dated April 8, 1994. Approves the rules that define the parameters of action of the missions/religious institutions in indigenous areas. Revokes provisions 12, 13, 14, 15 and 16 of item III of *Portería conjunta* 782/88, published in the Official Gazette dated July 11, 1988, section I, page 12785.
  - \* Decree 1775 dated January 8, 1996. Establishes the administrative procedure for the demarcation of indigenous lands and establishes other provisions.<sup>128</sup>

Article 7. The federal indigenous assistance agency may, in exercise of the police power provided for in section 1, subsection VII, of Law 5371 dated December 5, 1967, regulate the entry and transit of third parties in areas where the presence of isolated indigenous peoples is verified, as well as take the necessary measures for the protection of indigenous peoples.

- \* FUNAI *Portería conjunta* 14 dated January 9, 1996. Establishes rules for the preparation of the Detailed Report on the Identification and Delimitation of Indigenous Lands referred to in subparagraph 6 of Article 2 of Decree 1775 dated January 8, 1996.
- \* Decree 3156 dated August 27, 1999. Establishes the conditions for the provision of health care to indigenous peoples, within the scope of the Unified Health System, by the Ministry of Health. Amends the provisions of Decrees 564 dated June 8, 1992 and 1141 dated May 19, 1994, and authorizes other provisions.

Article 3. The Ministry of Health will establish the policies and guidelines for the promotion, prevention and recovery of indigenous

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<sup>128</sup> It is worth noting that FUNAI uses a legal provision when the presence of isolated indigenous peoples outside the boundaries of already recognized Indigenous Lands is verified. This is the Restriction of Use, a measure that aims to intercept the area of occupation of isolated groups and restrict the entry of third parties, with the purpose of guaranteeing the physical integrity of indigenous peoples, while other protection actions are carried out and administrative processes are being processed for the demarcation of Indigenous Land. This legal provision is supported by Article 7 of Decree 1775 of 1996, Article 231 of the Federal Constitution of 1988 and Article 1, subparagraph VII of Law 5371 of 1967.

health, which actions will be carried out by the National Health Foundation (FUNASA).

Sole paragraph. FUNAI will inform FUNASA of the existence of isolated indigenous groups, in order to provide specific health care.

- \* *Portería conjunta* 281/PRES dated April 20, 2000. Establishes the guidelines and principles for FUNAI's work with isolated indigenous peoples.
- \* *Portería conjunta* 290/PRES/FUNAI dated April 20, 2000. Creates the Ethno-Environmental Protection Fronts (FPE), determines that the objective of the Department of Isolated Indians is to plan, standardize and supervise activities related to isolated indigenous peoples. Establishes that the implementation of the policy and protection of isolated indigenous peoples is the responsibility of field teams referred to as Ethno-Environmental Protection Fronts. Revokes *Portería conjunta* PP 1901 dated July 6, 1987.
- \* *Portería conjunta* 693/PRES dated July 19, 2000. Creates the Indigenous Cultural Heritage Registry.
- \* Legislative Decree 143 of 2002. Approves the text of ILO Convention No. 169 on indigenous and tribal peoples in independent countries.
- \* Decree 5051 dated April 19, 2004. Enacts ILO Convention 169 on Indigenous and Tribal Peoples.
- \* FUNAI *Portería conjunta* 177/PRES dated February 16, 2006. Regulates the administrative procedure for authorization, by FUNAI, for the entry of persons to indigenous lands interested in the use, acquisition or transfer of indigenous copyright and image rights, and guides related procedures, with the aim of respecting the values, artistic creations and other means of indigenous cultural expression, as well as protecting their social organization, customs, languages, beliefs and traditions.
- \* *Portería conjunta* 230 dated March 8, 2006, as revoked by *Portería conjunta* 95 dated February 8, 2007, which aimed to create an "Indigenous Policy Management Committee for Isolated Indigenous Peoples," which would be established to deliberate on the policy of protection of isolated indigenous peoples, especially the appropriate timing, after an exhaustive analysis by this management committee, to conclude that contact is inevitable to safeguard the physical and cultural existence of a certain isolated indigenous group. This committee was never established.
- \* Regulatory Instruction 3 dated June 28, 2006. Prohibits any form of enclosure and leasing of Indigenous Lands.
- \* Regulatory Instruction 5 dated October 27, 2006. Establishes, within the scope of FUNAI, rules and procedures for the exercise of the administrative police power.
- \* Legislative Decree 143 of 2002. Approves the text of ILO Convention No. 169 on indigenous and tribal peoples in independent countries.
- \* Decree 5051 dated April 19, 2004. Enacts ILO Convention 169 on Indigenous and Tribal Peoples.
- \* FUNAI *Portería conjunta* 177/PRES dated February 16, 2006. Regulates the administrative procedure for authorization, by FUNAI, for the entry of



persons to indigenous lands interested in the use, acquisition or transfer of indigenous copyright and image rights, and guides related procedures, with the aim of respecting the values, artistic creations and other means of indigenous cultural expression, as well as protecting their social organization, customs, languages, beliefs and traditions.

- \* Regulatory Instruction 3 dated June 28, 2006. Prohibits any form of enclosure and leasing of Indigenous Lands.
- \* Regulatory Instruction 5 dated October 27, 2006. Establishes, within the scope of FUNAI, rules and procedures for the exercise of the administrative police power.
- \* Decree 6861 dated May 27, 2009. Establishes Indigenous School Education. Defines its organization in the ethno-educational territories and issues other provisions.
- \* *Portería conjunta* 116/PRES dated February 14, 2012. Establishes guidelines and criteria to be observed in the design and execution of actions for the demarcation of indigenous lands.
- \* Decree 7747 dated June 5, 2012. Establishes the National Policy for the Territorial and Environmental Management of Indigenous Lands (PNGATI), and enables other provisions.

Article 3. The following are the PNGATI guidelines: Topic VII. Territorial and environmental protection of lands occupied by isolated and recently-contacted indigenous peoples.

- \* *Portería conjunta* 1483/PRES dated November 19, 2012. Determines the working hours for the expeditions of public officials working in actions coordinated by the Ethno-Environmental Protection Fronts.
- \* *Portería conjunta* 320/PRES dated March 27, 2013. Establishes guidelines and criteria for the concession, execution and control of the payment of financial aid by FUNAI to indigenous peoples participating in actions for the protection and promotion of rights.
- \* Regulatory Instruction 03 dated June 11, 2015. Establishes rules and guidelines related to tourism activities on indigenous lands.
- \* *Portería conjunta* 501 dated May 31, 2016. Establishes the Council of Policies for the Protection and Promotion of the Rights of Isolated and Recently-Contacted Indigenous Peoples.
- \* Decree 9010 dated March 23, 2017, as revoked by Decree 11226 dated October 7, 2022. Approves FUNAI's Bylaws and the Schedule of Commissioned Positions and Trust Functions, and relocates and transforms commissioned positions and trust functions. In Schedule I. Bylaws of the National Foundation of Indigenous Peoples (FUNAI)

#### Chapter I. Nature, location and purpose

Article 1. The National Foundation of Indigenous Peoples (FUNAI), a public foundation attached to the Ministry of Justice and Public Security, which establishment was authorized by Law 5371 dated December 5,

1967, has its registered office and jurisdiction in Brasilia, Federal District, and is located in the national territory.

Article 2. The objective of FUNAI is:

[...] II. To formulate, coordinate, articulate, monitor and ensure compliance with the indigenous policy of the Brazilian State, based on the following principles:

[...]

d) guarantee isolated indigenous peoples the exercise of their freedom and traditional activities without the need for contact.

[...]

Article 17. The Territorial Protection Directorate is responsible for:

[...]

IV. Monitoring regularized indigenous lands and lands occupied by indigenous peoples, including isolated and recently-contacted indigenous lands.

*Portería conjunta* 666/PRES dated July 17, 2017. Internal Regulations of the National Foundation of Indigenous Peoples (FUNAI). Includes functions related to the promotion of the rights of isolated peoples.

Article 1. Approve the Internal Regulations of the National Foundation of Indigenous Peoples (FUNAI), as a Schedule to this *Portería conjunta*.

Article 2. The objective of FUNAI is:

[...]

II. To formulate, coordinate, articulate, monitor and ensure compliance with the indigenous policy of the Brazilian State, based on the following principles.

[...]

d) Guarantee isolated indigenous peoples the exercise of their freedom and traditional activities without the need to make contact with them.

[...]

Chapter II. To formulate, coordinate, articulate, monitor and ensure compliance with the indigenous policy of the Brazilian State, based on the following principles:

[...]

d) Guarantee isolated indigenous peoples the exercise of their freedom and traditional activities without the need to make contact with them.

[...]

Chapter II

Article 198. The General Coordination of Isolated and Recently-Contacted Indigenous People (CGIIRC) shall:

I. Promote the implementation of policies, programs and actions for territorial protection and the promotion and protection of the rights of isolated and recently-contacted indigenous peoples.





II. Coordinate and supervise the actions of information assessment, mapping, monitoring and protection of isolated indigenous peoples and their territories, as well as the actions aimed at the protection and promotion of the rights of recently-contacted indigenous peoples carried out by the Coordinators of the Ethno-Environmental Protection Front (CFPE).

III. Coordinate and supervise, at intersectoral and interinstitutional level, contact and post-contact actions with isolated indigenous peoples.

IV. Monitor and guide the planning, scheduling and budgetary, physical and financial execution in relation to the achievement of goals, initiatives and indicators of the actions undertaken by the General Coordination, including those derived from the application of income from indigenous heritage.

V. Participate in the preparation of the plan for the application of resources from Indigenous Heritage Income with Regional Coordinations, the Coordination of the Ethno-Environmental Protection Front (CFPE) and the effective participation of indigenous communities, within the scope of its competence.

VI. Articulate the interface of information on actions aimed at isolated and recently-contacted indigenous peoples with those of institutional systems.

VII. Manage the data of the Information System on Isolated and Recently-Contacted Indigenous Peoples in Brazil (SIRC), with a view to official recognition of the presence of isolated indigenous peoples.

VIII. Grant, within the scope of its competencies, the subsidies and demonstrations necessary for the indigenous component of the environmental licensing process.

IX. Articulate, monitor and express an opinion on the presence of isolated and recently-contacted indigenous peoples in the preparation and implementation of APGP, including on indigenous lands shared with other peoples, as well as in relation to intersectoral and interinstitutional actions related to overlapping or contiguous protected areas.

X. Articulate, at intersectoral and interinstitutional level, actions for the training of employees of FUNAI and other institutions in relation to policies aimed at isolated and recently-contacted indigenous peoples.

XI. Express, within the scope of its competencies, in the processes of issuance of administrative certificates and recognition of limits.

XII. Propose the establishment of a restriction of use in areas occupied by isolated indigenous peoples, under the terms of Article 7 of Decree 1775 of 1996.

[...]

Article 202. The Coordination of the Policy for the Protection and Mapping of Isolated Indigenous Peoples(COPLII) is responsible for:

I. Plan, monitor and evaluate, together with the CFPE, the execution of actions to locate and monitor isolated indigenous peoples.

II. Plan, monitor and evaluate, together with the CFPE, actions for the territorial protection of areas with the presence of isolated indigenous peoples.

III. Plan, monitor and evaluate, together with the CFPE, actions for dialogue with the indigenous and non-indigenous environment of the territories occupied by isolated indigenous peoples.

IV. Analyze the work plans and reports prepared by the CFPE that refer to the promotion of the rights of isolated indigenous peoples.

V. Develop, together with the CFPE, restriction of use proposals for the protection of isolated indigenous peoples and support administrative procedures for the demarcation of indigenous lands with the presence of isolated indigenous peoples.

VI. Analyze requests for authorization to enter indigenous lands with the presence of isolated indigenous peoples, in conjunction with the CFPE, for the purpose of subsidizing the presidency of FUNAI.

VII. Manage the Isolated Indigenous Peoples module of SIRC.

VIII. Support intersectoral and interinstitutional articulation in the field of actions to protect and promote the rights of isolated indigenous peoples.

IX. Plan, monitor and evaluate, at intersectoral and interinstitutional level, the execution of contingency plans in case of contact with isolated indigenous peoples.

X. Monitor, together with the CFPE, situations of imminent contact with isolated indigenous peoples.

Article 203. The Support Service to the Policy for the Protection and Mapping of Isolated Indigenous Peoples (Seaplii) is responsible for:

I. Support the planning, monitoring and evaluation of the actions carried out by the CFPE.

II. SUPPORT INFORMATION MANAGEMENT IN THE ISOLATED INDIGENOUS PEOPLES MODULE OF SIRC.

III. Analyze, technically, the information on the presence of isolated indigenous peoples.

IV. Support the management of the collection of documents related to the presence of isolated indigenous peoples.

Article 204. The Coordination of Policies for Recently-Contacted Indigenous Peoples (Copirc).

Shall:

I. Coordinate the development of guidelines for policies aimed at protecting and promoting the rights of recently-contacted indigenous peoples.

II. Subsidize the implementation of universal social policies, together with recently-contacted peoples, at intersectoral and interinstitutional level.

III. Subsidize the implementation of ethno-development policies for recently-contacted indigenous peoples, in intersectoral articulation.

IV. Subsidize and monitor, in intersectoral and interinstitutional articulation, health care actions with recently-contacted indigenous peoples, within the scope of its competencies.



V. Guide dialogue actions with recently-contacted indigenous peoples and follow up on the implementation of free, prior and informed consultation protocols.

VI. Coordinate, monitor and articulate the implementation of governmental and civil society policies, programs and actions aimed at protecting and promoting the rights of recently-contacted indigenous peoples.

VII. Analyze the work plans prepared by the CFPE and monitor their implementation.

VIII. Systematize the information and analyze the reports produced by the CFPE.

IX. Support administrative procedures for the demarcation of indigenous lands with the presence of recently-contacted indigenous peoples.

X. Control and analyze requests for authorization to enter indigenous lands with the presence of recently-contacted indigenous peoples, in conjunction with the CFPE, in order to subsidize the presidency of FUNAI.

XI. Support intersectoral and interinstitutional articulation in the field of actions to protect and promote the rights of recently-contacted indigenous peoples.

XII. Manage the Recently-Contacted Indigenous Peoples module of SIRC.

Article 205. The Policy Support Service for Recently Contacted Indigenous Peoples –Seapirc.

Shall:

I. Support the analysis and follow-up of actions carried out by the CFPE for the protection and promotion of the rights of recently-contacted indigenous peoples.

II. Systematize and analyze information on recently-contacted indigenous peoples.

III. Analyze, technically, actions for the protection and promotion of the rights of recently-contacted indigenous peoples.

*Portería conjunta* 4094 dated December 20, 2018. Defines principles, guidelines and strategies for the health care of Isolated and Recently-Contacted Indigenous Peoples.

Article 1. This *Portería conjunta* approves the principles, guidelines and strategies for the joint action of Sesai/MS and the National Foundation of Indigenous Peoples (FUNAI) in the planning, coordination, execution, monitoring and evaluation of health care actions for Isolated and Recently-Contacted Indigenous Peoples.

Resolution 44 dated December 10, 2020. National Human Rights Commission (CNDH). Establishes principles, guidelines and recommendations to guarantee the human rights of isolated and recently-contacted indigenous peoples, as well as to safeguard the life and well-being of these peoples.

Decree 11226, dated October 7, 2022. Approves the Bylaws and the Schedule of Commissioned Positions and Trust Functions of the National Foundation of Indigenous Peoples (FUNAI), and relocates and transforms commissioned positions and trust functions.

FUNAI *Portería conjunta* 588 dated December 8, 2022. Establishes the on-duty system, the scale and the system of alternating shifts by rotation, specifically and exceptionally, for the activities carried out by public servants of the National Foundation of Indigenous Peoples (FUNAI), aimed at the territorial protection of indigenous lands, the ethno-environmental protection of isolated and recently-contacted indigenous peoples, the promotion of policies for recently-contacted indigenous peoples and the monitoring, inspection and territorial prevention of illegal activities on indigenous lands.

## Colombia

Colombia does not constitutionally recognize the rights of PIACI. However, there is a provision, in its Constitution, which establishes that

the departments of Amazonas, Caquetá, Guaviare, Guainía, Putumayo and Vaupés shall be governed by special regulations to guarantee the effective protection and preservation of biodiversity, the environmental and cultural wealth of the indigenous communities that inhabit them and contribute to the improvement of the quality of life of their inhabitants (Article 310).

- \* Law 21 of 1991. Approves ILO Convention 169.
- \* Resolution 0764 dated August 5, 2002. Ministry of Environment. Whereby the Puré River National Natural Park is reserved, delimited and declared, among other reasons, for the “protection of the territory of the Yuri, Arojes or Carabayo ethnic group, who have no contact with other societies”, with the full acceptance of the National Organization of Indigenous Peoples of the Colombian Amazon (OPIAC).
- \* Resolution 1473 of 2004 (Ministry of Culture). Whereby the Knowledge of Nature and the Oral Tradition of the Nukak Makú, located in the jungle between the Guaviare and Inírida rivers in the department of Guaviare, is declared an Asset of National Cultural Interest.
- \* Agreement 5 of 2006. National Council for Assistance to the Displaced Population, “Whereby the effective, special and differentiated Care Plan is adopted, aimed at members of the Nukak Makú indigenous community who have been forced to move to urban areas, as well as those who are at risk of displacement from the department of Guaviare”.
- \* Special emergency safeguarding plan for the cultural expressions of the Nukak people. Ministry of Culture. Prerequisite to include the cultural



expressions of the Nukak people in the Representative List of Intangible Cultural Heritage according to Decree 2941 of 2009 and Law 1185 of 2008 or Sacred Indigenous Law of Culture.

- \* Victims' Law Decree 4633 of 2011 (Article 17). Establishes measures for assistance, care, comprehensive reparation and restoration of territorial rights to victims belonging to indigenous peoples and communities. In its articles, it recognizes that PIAI are subjects of special protection and that "in no case may they be intervened or dispossessed of their territories, nor shall they be subject to policies, programs or actions, private or public, which promote contact or carry out interventions in their territories for any purpose".
- \* Through Resolutions 1038 dated August 21, 2013, and 1256 dated July 10, 2018, the PNNC administrative unit reserved, bounded, delimited and declared an area of land to expand the Serranía de Chiribiquete National Natural Park, declared as such by Resolution 120 of 1989, and determined the necessary protection of PIA.
- \* Decree 2333 of 2014 (Ministry of Agriculture). Establishes mechanisms for the effective protection and legal security of lands and territories occupied or ancestrally or traditionally owned by indigenous peoples. Article 14 refers to the "delimitation and demarcation of territories of isolated peoples". "In order to give special treatment to the right of possession over the ancestral or traditional territory in favor of Indigenous Peoples in Isolation, which they occupy or use, the national Government will take exceptional measures for the delimitation and protection of their territories." It states that this process should take into account the involvement of national and regional bodies with jurisdiction over the territorial and cultural protection of these peoples, which should consult and coordinate in advance with the indigenous authorities and organizations adjacent to peoples in isolation. It does not propose methodologies to establish these territorialities.
- \* In 2014, the indigenous authorities of the Curare Los Ingleses Reserve, acting as their own government, in observance of the Law of Origin, the Superior Indigenous Law or Indigenous Law of their communities, and in exercise of the rights conferred by the Political Constitution, within the framework of the Special Indigenous Jurisdiction, issued Resolution 001, which recognizes the presence of PIA in the jurisdiction of the reserve territory and formalizes the decisions to protect these peoples.
- \* Resolution 1277 dated August 6, 2014. Ministry of Environment and Sustainable Development. Whereby the zoning and management of the Amazon Forest Reserve, established in Law 2a of 1959, in the departments of Amazonas, Cauca, Guainía, Putumayo and Vaupés, is adopted, and other determinations are made. Divides zones into type A and B. The area bordering the Puré River National Natural Park in the Amazon is classified as A: to guarantee the maintenance of basic ecological processes necessary to ensure the provision of ecosystem services, mainly related to water and climate regulation.

- \* Resolution 0156 of 2018 (National Natural Parks of Colombia –PNNC–). Establishes the guidelines for the formulation and implementation of planning, management and administration instruments and mechanisms in the protected areas of the National Natural Park System with presence or signs of presence of PIA, or any segments thereof.
- \* Decree 1232 of 2018 (Ministry of the Interior). In July 2018, following a prior consultation process that began in 2014, Decree 1232 was issued, which added to Decree 1066 of 2015, Sole Regulatory Decree of the Administrative Sector of the Ministry of the Interior, the creation of a National System for the Prevention and Protection of Rights of PIA, and establishes special preventive and protective measures. The decree states that PIA are those indigenous peoples or segments of indigenous peoples who, in the exercise of their self-determination, remain in isolation and avoid permanent or regular contact with people outside their group, or with the rest of society. The status of isolation is not lost in case of sporadic short-term contacts. In Colombia, the term “Natural State” was incorporated, established by some indigenous authorities adjacent to indigenous peoples in isolation, to refer to their close relationship with ecosystems, their native way of life and the high degree of maintenance of their knowledge systems.
- \* As an early prevention measure, Decree 1232 provides for the “official study”, which defines the research to establish the presence of PIA, as well as the description of their territories, which constitutes the technical basis for the preparation of risk reports. The entity in charge of determining the parameters of such study and conducting the research is the Ministry of the Interior. In addition, criteria are established for prioritizing research such as “areas of the national territory where there are indications of the presence of these peoples and where there is a reported risk of violation of their rights”.

Within this framework, Decree 1232 introduces the following considerations with regard to the Official Study in Colombia:

1. The prioritization of cases was to be submitted within six months after the issuance of the decree.
2. Methodologically, it should foresee the use of indirect and non-invasive methodologies for the collection of participatory information, such as stories from local inhabitants, testimonies from indigenous people who have left isolation, review of secondary sources, linguistic analysis, satellite images, oral tradition, traditional medicine, contributions from personal knowledge, among others, as long as they are methods that not involving contact with PIA.
3. The official study shall establish mechanisms that guarantee the protection of traditional knowledge and the exclusive use of the information provided by the indigenous communities for the purposes established in this chapter.



Credit: Amazon  
Conservation Team







However, in addition to the above, the regulatory framework does not establish methodologies for the development of official studies.

The Curare Los Ingleses Indigenous Reserve (AIPEA), after conducting an internal research on the existence of PIA in its jurisdiction, included within its zoning the category of intangible zone with an extension of 89,700 hectares, which was recognized by Resolution 001 of 2013, issued by the indigenous authorities of the reserve and reaffirmed by AATI AIPEA through Resolution 001 of 2023. In 2022 and 2023, under the Indigenous Pillar project of the Amazon Vision Program for indigenous peoples in their natural state (PIVA PIEN), the indigenous authorities of AIZA, PANI and CIMTAR earmarked zones for the protection of PIA territory. Of these, the special management zones of PANI, with an area of 39,100 hectares (Resolution 001 dated June 5, 2023 PANI) and the care/shielding zone of the territory of the people of Guama of AIZA with 112,800 hectares, are located within the Putumayo Property Indigenous Reserve (Resolution 001 dated June 14, 2023).

- \* Resolution 143 dated April 7, 2022 (Ministry of Environment and Sustainable Development). Whereby the Management Plan of the Puré River National Natural Park is adopted. It establishes that special management will be adopted in this area in order to guarantee the protection of the territory and the survival of the Yuri indigenous society in accordance with their status as a people in voluntary isolation, in coordination with the competent authorities, who will define specific policies for such purpose. As a consequence, and respecting the will of this indigenous people, any activity in the park's intangible zone is prohibited. There are two main conditions in this zone: the high vulnerability of PIA and the good state of conservation of ecosystems. The first condition means that any type of intervention that represents the possibility of minimal contact may alter the conditions of isolation and put these peoples at risk. The second condition is associated with the potential for the generation of water and climate regulation ecosystem services. For this reason, the intention of this zone is to avoid human intervention as much as possible as a protective measure and as a strategy to prevent the risk of contact with isolated peoples.

## Ecuador

Ecuador's 2008 constitution recognizes the rights of PIA:

Article 57. The following collective rights of indigenous communes, communities, peoples and nationalities shall be recognized and guaranteed in accordance with the Constitution and international human rights covenants, conventions, declarations and other instruments

[...]

The territories of peoples in voluntary isolation are an irreducible and intangible ancestral possession, therefore any type of extractive activity shall be forbidden in them. The State shall adopt measures to guarantee their lives, ensure respect for their self-determination and their willingness to remain in isolation, and ensure the observance of their rights. The violation of these rights shall constitute the crime of ethnocide, which shall be punishable by law.

[...]

Article 407. Extraction of non-renewable resources is prohibited in protected areas and areas declared intangible, including logging. Exceptionally, such 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 deemed convenient, may call a referendum.

- \* Executive Decree 552 of 1999, published in Official Record 121, on February 2, 1999, declares an Intangible Conservation Zone, in which all types of extractive activities are prohibited in perpetuity. The lands of residence and development of the Huaorani groups, known as Tagaeri Taromenane, and other groups that remain uncontacted, located to the south of the lands awarded to the Huaorani nationality and the Yasuní National Park. Tagaeri-Taromenane Intangible Zone.
- \* Precautionary Measures 91 of 2006 (IACHR). On May 10, 2006, the Inter-American Commission on Human Rights interceded before the Ecuadorian State in favor of the Tagaeri and Taromenane, requiring the State to take the necessary measures “to protect their life and personal integrity”, especially to adopt the necessary measures to protect the territory they inhabit, including the actions required to prevent third parties from entering.

The Inter-American Court of Human Rights<sup>129</sup> accepted the proceedings in the case of Tagaeri-Taromenane versus Ecuador in September 2019, filed by the IACHR for non-compliance with “Precautionary Measures 91/06” granted by the Inter-American Commission on Human Rights (IACHR, 2007).

On August 23, 2022, in a hearing in Brasilia (Brazil), the Ecuadorian State partially recognized its international responsibility for the violation of the rights set forth in Articles 8.1 and 25.1 of the American Convention on Human Rights (ACHR), in relation to the obligation established in Article 1.1 of the same instrument, regarding the massacres that took place in 2003 and 2006 against PIA, as opposed to 2013. The Inter-American Court of Human Rights expects to resolve the case in the next 6 to 12 months,<sup>130</sup> and will establish

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<sup>129</sup> For more information, see “Caso pueblos indígenas tagaeri y taromenane vs. Ecuador”, [https://www.corteidh.or.cr/docs/tramite/pueblos\\_indigenas\\_tagaeri\\_y\\_taromenane.pdf](https://www.corteidh.or.cr/docs/tramite/pueblos_indigenas_tagaeri_y_taromenane.pdf).

<sup>130</sup> To date, the Inter-American Court of Human Rights has not issued a final ruling.



jurisprudence regarding the protection of the rights to life, physical and cultural integrity and territory of PIA in Ecuador and the region.

- > Executive Decree 2187 of 2007. Published in Official Record 1, on January 16, 2007. Delimits the Tagaeri-Taromenane Intangible Zone with an area of 758,051 hectares, between the parishes of Cononaco and Nuevo Rocafuerte, Aguarico canton, province of Orellana, and the parish of Curaray, Pastaza canton, province of Pastaza and a contiguous Buffer Zone of 10 kilometers.
  
- \* Interministerial Agreement 033 dated October 19, 2007. Precautionary Measures Plan (PMC), 2007-2008. Second Addendum to Official Record 194 dated October 19, 2007, signed by the Ministries of Environment, Coordination of Natural and Cultural Heritage and Mines and Oil. The "Precautionary Measures Plan" (PMC) is formalized. In January 2008, a technical unit was created in the Ministry of Environment (MAE) attached to the Environmental and Social Reparation Program (PRAS) for the protection of PIA; later that year, the ZITT Monitoring Station located in Shiripuno (km. 90 of the Auca road) was inaugurated.<sup>131</sup>
  
- \* National Policy for Peoples in Voluntary Isolation. The National Policy Plan for Peoples in Voluntary Isolation sets out principles and strategic lines of action for the protection of PIAV (April 2007). This policy was submitted, however, it has not been formalized by administrative act and has not been published in the Official Record.

[...]

## **Second part.**

The national policy of peoples in voluntary isolation.

### **Vision**

The Ecuadorian State has created the conditions to ensure the physical survival and preservation of the culture of peoples in voluntary isolation. The Tagaeri and Taromenani peoples and other peoples in voluntary isolation are part of the history and cultural identity of the country; their existence is a collective heritage, and their well-being and development, in accordance with their own cultural patterns, contributes to the construction of a more equitable and just country.

### **Principles**

The principles that guide the actions of the Ecuadorian State and its citizens with respect to peoples in voluntary isolation are as follows:

#### **1. Intangibility**

The protection of lands and territories in favor of indigenous peoples in

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<sup>131</sup> For more information, see [http://www.mdgfund.org/sites/default/files/ENV\\_ESTU-DIO\\_Ecu\\_Patrimonio%20Natural%20y%20cultural%20YASUNI.pdf](http://www.mdgfund.org/sites/default/files/ENV_ESTU-DIO_Ecu_Patrimonio%20Natural%20y%20cultural%20YASUNI.pdf).

isolation shall be guaranteed, which entails the State's commitment to avoiding any activity that may endanger their survival. For such purpose, all legal and political instruments available to the Government will be used.

**2. Self-determination**

The right to self-determination of indigenous peoples in isolation must be recognized. In this regard, the action strategies will be adequate to guarantee the physical integrity and protection of the areas inhabited by these peoples under the principle of maintaining the ways of life characterizing them. To this end, the aggressive implementation of assistance models that undermine their self-determination will be avoided.

Isolation must be understood as the result of the right to self-determination of these peoples which, in most cases, is the consequence of aggressions suffered. For such purposes, their own territory, culture, life and development models and heritage shall be respected. "Heritage" includes all expressions of the relationship between the people, their land and other living beings and spirits sharing that land, and is the basis for maintaining social, economic and diplomatic relations with other peoples, with whom it is shared. All aspects of heritage are interrelated and cannot be separated from the traditional territory inhabited by a given people. Each indigenous people must decide for itself the tangible and intangible aspects comprising its heritage.

**3. Reparation**

In order to provide sufficient, effective and prompt reparation, this principle will be applied under the terms established by the United Nations, in two points relating to:

Redress that seeks to restore the victim's previous situation, i.e. the full exercise of his or her rights.

Satisfaction and guarantees of non-repetition which implies: termination of violations, verification of the facts and public knowledge of the truth, restoration of the dignity, reputation and rights of the victim, public acknowledgement of the facts and accountability, legal or administrative sanctions upon those responsible and the taking of measures aimed at the prevention of new violations. This principle will be applied to enable communities to rebuild their social fabric and the ecological conditions of their territories, based on an ecological assessment of the impacts of environmental damage and an understanding of the interdependent relationships between peoples and their lands. Respect for diversities must also be taken into account in the application of this principle.

**4. Pro homine**

In the application of these public policies, in case of discrepancy between domestic and international standards, the enforcement authorities shall ensure that the standards that provide the highest degree of protection to peoples in voluntary isolation are applied.



Credit: Colmena Lab





## 5. No contact

It should be up to indigenous peoples in isolation to decide freely and voluntarily whether or not to establish contact with society. By virtue of this principle, prevention, contingency and impact mitigation measures and plans shall be established in the event of undesired contact that could affect these peoples. Strategies should include health protection.

## 6. Cultural diversity

The principle of cultural diversity is the essence and identity of a State. This diversity is reflected in the different forms of social, economic and political organization, as well as in the different cultural expressions. Diversity is built in different historical moments and is nourished by the different interculturality processes that countries undergo.

The principle of cultural diversity is based on the recognition of the right of all peoples to be different and is a source of identity, since it expresses the historical identity of a culture, while maintaining and projecting it for future generations.

The application of the principle of cultural diversity requires the development of a multicultural legal framework that reflects the diversity of peoples in voluntary isolation; that guarantees in a preferential manner the protection of their rights achieved under conditions of historical injustice and inequality; and that creates the conditions for equity and social justice.

This principle requires the definition and application of policies in accordance with appropriate cultural patterns. The culture of peoples in voluntary isolation is the essence of their existence, it is the inalienable component of their history; together with the territory, it is an integral part of their identity.

## 7. Precaution

The principle of precaution refers to making public decisions in a timely and appropriate manner, in situations where the information available is insufficient, incomplete or confusing, and in situations where they must be made despite difficulties or complexities.

The principle of precaution as the guiding principle of environmental policy safeguards peoples in voluntary isolation. Precaution requires taking preventive measures in case of uncertainties or doubts about actions, policies or activities that may affect the life and physical, cultural and territorial integrity of peoples in voluntary isolation.

The principle of precaution corresponds to the situation in which the Tagaeri and Taromenani peoples live; the uncertainty and doubts about their condition of voluntary isolation require preventive measures, precautionary actions, respectful decisions and rules protecting their rights.

## 8. Equality

Peoples in voluntary isolation should enjoy equal rights, under the same conditions as any other people, especially when their historical invisibilization disrupts the daily life of their social relations. If socioeconomic differences within democratic societies can be addressed through social

and economic policies, ethnic differences must be respected within a framework of ethnic, cultural and legal pluralism.

These peoples, whose rights have been violated and who are defenseless against the advance of a pseudo-civilizing and greedy barbarism, rather than equal treatment, require a scheme of effective equality and special protective treatment.

This principle makes it possible to establish the socioeconomic conditions for indigenous peoples to exercise the principle of equality, enhancing their specificities.

## **9. Respect for human dignity**

Every human being is an end by itself and can never be considered simply as a means. This means that the physical or cultural extermination of peoples in voluntary isolation can never be admitted as a means to obtain the resources needed in the development processes for the benefit of other Ecuadorians.

We continue to introduce Ecuador's national regulatory frameworks to guide a possible PIACI protection policy.

- \* Agreement 120 of 2008. Ministries of Coordination of Cultural and Natural Heritage, Mines and Oil, and Environment. Establishes the code of conduct for public and private companies adjacent to intangible zones that carry out hydrocarbon activities in the Amazon Region.
  - > Interministerial Agreement based on national policy, health protection, environmental protection and ensuring autonomy.
  - > Neighboring companies must inform how they will apply this National Policy.
  - > Failure to comply will be penalized in accordance with the regulations substituting the environmental regulations for hydrocarbon operations.
  - > In case of incidental contact, they are obliged to report it to the ministries.
  - > Creation of an interministerial monitoring commission to verify compliance with the code.
  - > It grants class action to report violations or breaches.
- \* Organic Comprehensive Criminal Code (coip), Law or Official Record Addendum 180 dated February 10, 2014. Last modified: February 17, 2021.

Article 80 states that:

Ethnocide. The person who, in a deliberate, generalized 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.

- \* Executive Decree 503 of 2010. Transfers all powers, responsibilities, functions and delegations exercised by the Ministry of Environment with regard to the PMC in favor of the Tagaeri Taromenane PIA, to the then Ministry of Justice and Human Rights.





- \* Executive Decree 17 of 2013. On March 5, 2013, PIAV members killed two Waorani elders. At the end of March, in a retaliatory attack, an unknown number of PIAV members were killed and two girls were abducted. The president created a Commission to investigate the disputes between the Waorani and Tagaeri-Taromenani indigenous peoples.

This commission was chaired by Giuseppe Tomello, director of Fondo Ecuatoriano Populorum Progressio, and composed of the Ministry of Justice, Human Rights and Worship and the Secretariat for Policy Management. Subsequently, the Ministry of Public Health joined the commission.

The commission began its work in August 2013 until June 10, 2014, and conducted an investigation into the events that occurred in relation to PIAV over the years. At the end, it made several recommendations to prevent and avoid further violent events.

Agreement 0869 of 2015. Ministry of Justice, Human Rights and Worship. Incorporates the Directorate for the Protection of Indigenous Peoples in Voluntary Isolation to the Undersecretariat of Human Rights and Worship, which mission is to execute public policies regarding the protection of indigenous peoples in voluntary isolation in order to guarantee the protection of their lives and territorial rights in the Tagaeri Taromenane Intangible Zone. The Directorate for the Protection of Indigenous Peoples in Voluntary Isolation (DPPIAV) was created, a State entity specializing in such matters and which operation continues to this day.

- \* "Institutional action protocols for activities carried out in the Tagaeri-Taromenane Intangible Zone and its area of influence" (internal document, not available).
- \* Protocol for cases of encounters with Indigenous Peoples in Voluntary Isolation in the Tagaeri-Taromenane Intangible Zone and its Area of Influence (2015, 2017 and 2021). The protocol for encounters with PIAV in Spanish and Waotededo (2015) is issued by the directorate in charge of their protection; the same that were also updated for the last time in 2021, called "Protocol for cases of encounters with indigenous peoples in voluntary isolation in the Tagaeri Taromenane Intangible Zone and its area of influence".<sup>132</sup> The latest version of this protocol is called "Internal protocol for response to early warnings related to Indigenous Peoples in Voluntary Isolation in the Tagaeri Taromenane Intangible Zone and its area of influence". This protocol is not public and has not been formalized through the Official Record.
- \* Agreement 0114 dated August 8, 2017. Ministry of Public Health. Article 1 approves and authorizes the technical standard "Health protection for indigenous peoples in voluntary isolation and initial contact as mandatory regulations for the national health system".
- \* Ministerial Agreement 002 of 2018 in Official Record 335 dated September 26, 2018. Interministerial Agreement: Protocol of Conduct governing the

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<sup>132</sup> Official Letter SDH-SDH-2021-0360-OF dated April 13, 2021.

- subjects of control that develop hydrocarbon activities in areas adjacent to the Tagaeri-Taromenane Intangible Zone and its buffer zone, in compliance with the constitutional and legal principles of respect for the rights and expressions of Indigenous Peoples in Voluntary Isolation, according to the National Policy and in observance of the principle of no contact (Ministries of Environment, Hydrocarbons and Justice, Human Rights and Worship).
- \* Executive Decree 560 dated November 14, 2018. Transforms the Ministry of Justice, Human Rights and Worship into the Secretariat of Human Rights, which will be in charge of the following competencies: "(c) Protection of indigenous peoples in voluntary isolation".
  - \* Executive Decree 751 published in R. O. 506 Addendum, June 11, 2019. Extends the Tagaeri-Taromenane Intangible Zone, with a total of 818,501.42 hectares, establishing a 10-kilometer Buffer Zone (ZA) (399,605.070 hectares).
  - \* MTT4N-002 of 2020. Secretariat of Human Rights that defines PIAV protection jurisdiction. Protocol for the prevention and contingency of coronavirus (COVID-19) in the area of influence of the Tagaeri-Taromenane Intangible Zone.
  - \* Executive Decree 216 dated October 1, 2021. Confers upon the Secretariat of Human Rights the stewardship of public human rights policies in the country. Among the competencies for the protection of indigenous peoples in voluntary isolation is the duty to "regulate the activities carried out in the Tagaeri-Taromenane Intangible Zone and its buffer zone, in order to contribute to the protection of indigenous peoples in voluntary isolation".
  - \* Institutional Action Guidelines for Monitoring and Awareness-Raising Activities for the Protection of Indigenous Peoples in Voluntary Isolation in the Tagaeri-Taromenane Intangible Zone and its Area of Influence-2021. This document is not public and has not been formalized through the Official Record.
  - \* Executive Decree 609 dated November 29, 2022. Transforms the Secretariat of Human Rights into the Ministry of Women and Human Rights with the same competencies over Indigenous Peoples in Voluntary Isolation, PIAV.
  - \* Agreement MMDH-MMDH-2022-0001-A (Ministry of Women and Human Rights). Classifies as confidential the information on Indigenous Peoples in Voluntary Isolation, the treatment and handling of information by the Directorate for the Monitoring and Follow-up on the Protection of Indigenous Peoples in Voluntary Isolation of the Ministry of Women and Human Rights.
  - \* Protocol for Entering the Tagaeri-Taromenane Intangible Zone and its Buffer Zone (Ministry of Women and Human Rights). The purpose of this protocol is to regulate the entry by land, river and air of any person from outside the ZITT and the buffer zone (ZA), in compliance with national and international regulations for the protection of indigenous peoples in voluntary isolation.



- \* NAWE Bylaws, 2021-22. Approved in the Extraordinary Congress of the Waorani Nationality of Ecuador (NAWE) held in the community of Miwaguno, on December 1 and 2, 2021, and certified by the Secretariat of Management and Development of Peoples and Nationalities on May 27, 2022.<sup>133</sup> The bylaws recognize “the Tageiri, Taromenani, Dogakairi, Wiñatare and other peoples who live free of contact” (Article 8) in the Waorani ancestral territory, “where all types of extractive activities are prohibited” (Article 9). Several articles of these Bylaws refer to the guarantee and protection of their rights, especially no-contact (for example, Articles 10, 11 and 12 – subparagraphs l and m).

## **Paraguay**<sup>134</sup>

Despite the evidence and permanent news of sightings of indigenous peoples in isolation, Paraguayan legislation is very fragile in its treatment of these indigenous groups. No major legal regulation addresses them in particular. The general regulations for the country’s indigenous peoples, both in the constitutional provisions and in Law 904 of 1981,<sup>135</sup> Statute of the indigenous communities, do not adjust to or address the differentiated situation of these groups. Generally speaking, it can be stated that there is no explicit recognition of PIA in the national constitution or in general regulations, so that any defense or demand for protection must be made through the indirect application of the legal system.

Convention 169,<sup>136</sup> adopted by the country as law, could be applied in a summary manner, but not with the specificities demanded in this case; especially in terms of their protection and the basic guarantees so that they can develop their ways of life and production within the framework of national guarantees regarding human rights.

All Paraguayan legislation mentions the right to self-determination of indigenous peoples, prior and informed consultation on changes that could affect their territories or lifestyles and statements such as Human Rights, which includes the right to live and have the means to do so. However, all the regulations are written in such a way that they can only be effectively applied if the people mentioned in them are in contact with law enforcement agencies, which is not the case with the isolated groups of the Ayoreo people.

Despite these absences, Paraguay has recognized the existence of isolated peoples in court rulings and in its legislation. Thus, the three branches of

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<sup>133</sup> See “Estatuto” and “Reglamento interno”, [https://drive.google.com/drive/mobile/folders/1UIPEB5mHvj2MHXXSczzb43hEltagCh-?usp=drive\\_link&pli=1](https://drive.google.com/drive/mobile/folders/1UIPEB5mHvj2MHXXSczzb43hEltagCh-?usp=drive_link&pli=1).

<sup>134</sup> Study conducted by IA. Transcription of ILPy.

<sup>135</sup> See “Ley n.o 904. Estatuto de las comunidades indígenas”, <https://www.bacn.gov.py/leyes-paraguayas/2400/ley-n-904-estatuto-de-las-comunidades-indigenas>.

<sup>136</sup> See “Convenio sobre pueblos indígenas y tribales”, [https://www.mtess.gov.py/application/files/1315/5913/1268/convenio\\_oit\\_169\\_castellano.pdf](https://www.mtess.gov.py/application/files/1315/5913/1268/convenio_oit_169_castellano.pdf).

the State have explicitly or implicitly stated their commitment to the recognition of the existence of isolated groups and their protection.

### **Judicial level**

In the resolution of the case “constitutional protection brought by Attorneys Maximiliano Mendieta Miranda and José Escariza on behalf of the General Association of the Ayoreo People (AGPA) against the Ministry of Public Works and Communications (MOPC) and the Secretariat of Environment (SEAM). 2014-7221”,<sup>137</sup> as a result of the Cerro León mining prospecting project, the intervening judge states in the recitals that the existence of indigenous communities in voluntary isolation living in the area that would be affected by such project has been proven. In the same text, he states that these activities attack and threaten the indigenous Ayoreo people in isolation. Later, when considering the weight of the legislation that protects the rights of native peoples, and particularly mentioning the United Nations Declaration on the Rights of Indigenous Peoples, he refers again to the peoples in isolation, highlighting that in the specific case of the Ayoreo people, they cannot advocate for their own rights, so the protection of their life and culture takes on particular relevance for human rights and, directly, refers to the State’s obligation to establish effective mechanisms to prevent any act that violates their right to live in freedom as distinct peoples. Finally, he emphasizes that the principle of no contact is the embodiment of the right of indigenous peoples in voluntary isolation to self-determination. This not only recognizes the legal existence of peoples in isolation, but also establishes the fact that they are not in contact as an expression of their freedom and proof of their refusal to allow invasive and aggressive methods to be used in the territories they occupy.

### **Legislative level**

On the legislative level, within the same case of the defense of rights over the territory of the Defensores del Chaco National Park and particularly of Cerro León, Law 5540<sup>138</sup> (amending Law 5392 of 2015), sanctioned on December 17, 2015, and published on December 23 of the same year, states that in the preparation of the Management Plan for the Defensores del Chaco National Park “a ban on high-impact activities that alter the natural ecosystem of the forest-dwelling indigenous communities that inhabit the area should be considered”. Thus, the law explicitly recognizes the existence of isolated groups within the region; it is the first legal rule that expressly addresses the issue. Not only that, it implicitly declares that the conservation of natural ecosystems is not for their own sake, but is inalienable to the protection of the indigenous groups referred to.

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<sup>137</sup> See <https://www.iniciativa-amotocodie.org/wp-content/uploads/2015/01/AMPA-RO-AGPA-CERRO-LEON-r.pdf>.

<sup>138</sup> See “Ley n.o 5540”, <https://www.bacn.gov.py/leyes-paraguayas/4521/ley-n-5540--modifica-el-articulo-4-de-la-ley-n-539215-que-establece-los-linderos-del-parque-nacional-defensores-del-chaco-creado-por-decreto-del-poder-ejecutivo-n-16806-del-6-de-agosto-de-1975>.



## **Executive plan**

The automatic enactment of this law commits the responsibility of the Executive Branch to the recognition of the existence of peoples in voluntary isolation (referred to as forest-dwelling groups).

Hence, the three branches of the Paraguayan State are involved in such recognition. Thus, State policies regarding the use of the occupied territories cannot ignore their existence, their rights and the protection of their lives as differentiated groups that have survived the colonizing process, despite the fact that the territory effectively recognized by the State as occupied by them is almost one sixth of the territory in current and traditional use.

However, there is still no clearly defined legal status for individuals belonging to such isolated groups. This, for the purposes of exercising the right, makes them non-existent as people, in terms of the scope of regulatory codes. There is no defense mechanism either for the implicit rights in the recognition of the existence of forest-dwelling groups.

In practice, there is invisibilization and even denial of the existence of PIA in Chaco, so any situation that generates a danger to their lives requires a long administrative and judicial process that usually ends up ruling against the claims for protection. Each claim entails the risk that, in order to deny their existence, local annihilation campaigns are illegally organized; while the operators of projects that may be a threat to PIA use the public media and networks to dismiss their existence or groups of them in the areas concerned, as well as to discredit individuals, indigenous or civil society organizations that claim this protection.

A very limited achievement is the “Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation or Initial Contact in the Ayoreo Totobiegosode Natural and Cultural Heritage-(PNCAT) (2018), located in the Department of Alto Paraguay, Paraguayan Chaco”, approved in 2018 by the Inter-institutional Commission for the Protection of Indigenous Peoples in Isolation or Initial Contact of the Human Rights Network of the Executive Branch (General Directorate of Human Rights of the Ministry of Justice). This protocol was developed before

the need for an instrument to effectively guarantee the respect and safeguarding of the rights of the Ayoreo Totobiegosode people in isolation and initial contact and to join efforts to assist them (Title I, justification).

It is limited textually to a single group, the Totobiegosode, which could be found in the area covered by the heritage, without considering the existence of other groups in a similar situation in other areas of Chaco. Despite this, a preventive operation was carried out in a case outside the PNCAT, in an area where, according to indications, it would not be a group belonging to the Totobiegosode, without taking into account the existence of other groups in

a similar situation. Currently, there is a legislative initiative<sup>139</sup> to reduce the area of the PNCAT to less than half (originally 550,000 hectares) in order to legalize illegal agricultural, livestock and forestry activities that take place on the private ranches involved.

### **Law that regulates the dynamics of forest transformation projects and Protected Wildlife Areas.**

There is a broad set of regulations that favor the protection of forests and their resources, which should be taken into account when analyzing the different possibilities and strategies for the protection of groups in isolation, given the absence of specific regulations that protect their territory and their existence as distinct human groups.

The following rules should be taken into account for the approval of use plans that transform the forest cover of Chaco. Many of them have not been considered in the approval processes or the Ministry of Environment and Sustainable Development (MADES), the successor agency to SEAM, does not have the capacity to exercise the control mechanisms pertinent to its functions. These are necessary for the protection of forests, with all their richness in terms of fauna and flora and the natural collection and conservation of water, vital for the uncontacted groups to be able to continue living in the conditions they choose.

### **Main regulations**

#### ***Safeguarding of third-party rights in the design of land use plans***

Resolution 323 of 1992 of the National Forest Service of Paraguay (SFN), which establishes that Forest Harvesting and Management Plans must include a plan showing, among other elements, the boundaries, with the corresponding property and parcel numbers.

SEAM Resolution 82 of 2009 that determines:

1. That land use changes may not be developed on properties subject to indigenous claims recognized by administrative, legislative or judicial State bodies; as well as by international jurisdiction in accordance with treaties ratified by the Republic.
2. That forest reserves shall be at least 25% and be established following the criteria of continuity of forest stands, namely:
  - a. Continuation of watercourse and spring protective forests.
  - b. In sites adjacent to forest reserves of neighboring properties, Protected Wildlife Areas (ASP) or forested areas of indigenous communities, promoting ecological corridors.
3. It also indicates that, if there are no neighbors with forests, the criterion should be governed by the degree of environmental fragility of the ecosystem on the affected property.

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<sup>139</sup> See "Proyecto de ley", <https://silpy.congreso.gov.py/web/expediente/130051>.



**Crédito:**  
**Iniciativa Amotocodie**





### ***Safeguarding watersheds and their protective forests***

Decree 18831 of 1986, which establishes environmental protection rules, including: the protection of watersheds through the conservation of a 100-meter strip on both banks of rivers, streams, springs and lakes (Articles 2 and 3); clearing with a continuity resolution of up to 100 hectares, leaving protective strips of at least 100 meters (Article 6), and the conservation of 25% of the surface of rural property as protective forest (Article 11).

Law 4241 of 2010, on the restoration of watershed protective forests.

Decree 9824 of 2012, which regulates Law 4241 of 2010.

### ***Protection of water sources***

SEAM Resolution 222 of 2002, which establishes the water quality standard of the Republic. Classes 1 and 2, which are more precisely defined in Resolution 255 of 2006, are of interest for this report.

SEAM Resolution 255 of 2006, which classifies surface waters.

- \* Article 1 defines Class 2 as all surface waters of the Republic, according to Resolution 222 of 2002, Article 1.
- \* Article 2 defines Class 1 water as headwaters or springs of watercourses.

### ***Protection of natural forests***

Law 422 of 1973, Forestry.

- \* Article 6 defines protective forests (cf. Article 33).
- \* Article 7 defines special forests (of scientific, educational, historical, historical, tourist, experimental, recreational, and experimental interest (cf. Article 34), establishing that the Ministry of Agriculture and Livestock (MAG), together with other agencies with jurisdiction, will classify the country's forests and forest lands (Article 8).
- \* Article 22 establishes that forests are public utility and can be expropriated for the following purposes:
  - > Erosion control.
  - > Regulate and protect watersheds and springs.
  - > Protect crops.
  - > Defense and beautification of communication routes.
  - > Public health and tourism.
- \* Article 42 establishes that all rural properties of more than 20 hectares must maintain 25% of natural forest.
- \* Violations (Article 53) include unauthorized logging, non-compliance with approved harvesting plans and forest arson.

Decree 11681 of 1975, which regulates Forestry Law 422.

- \* Articles 49 to 52 regulate and limit the use of protective forests.
- \* Articles 70 to 73 refer to National Parks, declaring them intangible areas (Article 71).



SFN Resolution 001 of 1994, which establishes rules for the protection of natural production forests.

- \* Article 1 establishes that 25% of the natural forests, referred to in Article 11 of Decree 18831 of 1986, must be made up of a continuous and compact forest stand. This forest stand may be managed for production purposes.
- \* Article 2 states that the forest strips of at least 100 meters wide between agro-pastoral plots, as indicated in Article 6 of Decree 18831 of 1986, will not be considered as part of the 25% of forests to be preserved.
- \* Finally, Article 4 states that gallery forests will not be cleared or considered as part of the 25% of the conservation area, as they are considered protective forests, according to Article 69 of Forestry Law 422 of 1973.

SFN Resolution 128 of 2003, which regulates the harvesting of palo santo (*Bulnesia sarmientoi*).

- \* Article 2 stipulates that, in land use plans, the plot to be cleared must not exceed 100 hectares on a continuous basis, must contain a forest corresponding to 5% of the surface, and must be located in the distribution area of the species (palo santo). In the event of being scattered on the plot to be cleared, the area to be set aside as a reserve or buffer strip must be increased by 5% of each plot to be cleared.

SFN Resolution 1036 of 2007, which establishes the inspection of farms larger than 20 hectares, in conjunction with SEAM.

- \* Article 3 states that gallery forests will not be cleared or considered as part of the 25% conservation area (Forestry Law, Article 6).
- \* It also indicates, in Article 4, that the forest strips of at least 100 meters wide that must be established between plots (Decree 18831 of 1986, Article 6) will not be considered as part of the 25% of the forest to be preserved.

SFN Resolution 128 of 2008, holding the owners of rural properties responsible for compliance with Article 42 of Law 422 of 1973, which establishes that 25% of the forests on the property must be preserved in a natural state.

National Forest Institute (INFONA)<sup>140</sup> Resolution 1136 of 2011.

- \* Article 1 establishes that changes in land use for livestock activity must be carried out with the silvopastoral system, leaving a minimum of 30% of standing trees per hectare, in accordance with the original density, as per the inventory carried out (which implies that use plans must include the completion of a forest inventory).
- \* Article 2 establishes that when properties have an area to be developed in excess of 2,000 hectares, the developments per year may not exceed 25% of the authorized area.

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140 Successor to SFN by Law 3464 of 2008.



- \* Exceptions:
  - > Properties within 50 kilometers of the boundary of a Protected Wildlife Area or bordering river; in which case the maximum is 15% per year.
  - > Properties between 51 and 100 kilometers from the boundaries of a Protected Wildlife Area, in which case the maximum is 20% per year.
- \* Finally, Article 4 prohibits the burning of forest biomass resulting from the implementation of land use plans.

### ***Use of fire***

SEAM Resolution 1476 of 2009, which regulates the use of fire for field management and prohibits it in dry seasons.

INFONA Resolution 1136 of 2011. It has already been mentioned that Article 4 prohibits the burning of forest biomass resulting from the implementation of land use plans.

### ***Biosphere reserve and determination of core and management areas***

Decree 13202 of 2001, creating the Northern Chaco Biosphere reserve.

The text defines the ASPs that make up the core zones, which by definition are intangible. The ASPs cited in the text have a direct impact on the protection of the territory of indigenous peoples in isolation. These are:

Article 3:

- > Río Negro National Park Reserve, with 282,630 hectares.
- > Cerro Cabrera-Timane Natural Reserve, with 502,520 hectares.
- > Médanos del Chaco National Park, with an area of 597,500 hectares.
- > Cerro Chovoreca Natural Monument, with 247,150 hectares.

\* Article 4:

- > Defensores del Chaco National Park, with 720,000 hectares.
- > Teniente Agripino Enciso National Park, with 40,000 hectares.

\* Article 5 includes as Private Natural Reserves, subject to a management plan that will govern their use, all areas owned by the Armed Forces. Subsequent law regulates the use of these lands as ASP under the custody of the fFAA. These are Laws 6629, 6630, 6633 of 2020 and 7079 of 2023.

\* Likewise, Article 6 defines all the properties of INDI and “parcialidades indígenas” (group of communities).

SEAM Resolution 1281 of 2011, which expands the Chaco Biosphere Reserve, created by Decree 13202 of 2001 and approved by UNESCO.

### ***Protected Wildlife Areas***

SEAM Resolution 200 of 2001, which assigns and regulates the categories of management, zoning and uses of ASPs.

- \* Article 3 establishes that Scientific Reserves, National Parks and Natural Monuments will be considered as strictly protected management categories.
- \* Article 14 defines as Category II, under the generic name of National Park, those natural areas with ecosystems that contain:
  - \* Outstanding geomorphological features.
    - > Species typical of a natural region intended, under protection, for research, education and nature tourism.
- \* The characteristics of the National Park category include the populations that are located within the park and make traditional use of the area's resources through activities considered sustainable.
- \* Article 16 defines as Category III, under the generic name of Natural Monument, those areas that contain unique natural or cultural characteristics or features of outstanding cultural value, which are intended, under protection, for scientific research and recreation when conditions so permit.

SEAM Resolution 781 of 2005, which regulates the public use of Protected Wildlife Areas. Article 2 includes the prohibition of any type of prospecting or production activity related to natural resources (including mining), without permission from the enforcement authority under Law 342 of 1994, on Protected Wildlife Areas.

SEAM Resolution 562 of 2017, which recognizes with a special category of conservation (Indigenous Conservation Territory) those natural or modified ecosystems that contain biodiversity values, ecological benefits and cultural values voluntarily conserved by indigenous peoples and local communities, whether sedentary or mobile, through customary laws or other effective means of protection (Article 4, which amends and expands Article 26 of Resolution 200 of 2001). This rule is of particular importance for the protection of territories of isolated groups, making a specific indication that these are "territories" and not owned land, and contemplates the existence of "mobile" indigenous peoples.

### *Environmental services*

The use of untransformed areas for the provision of environmental services significantly favors the conservation of the Ayoreo PIA territory in Paraguay, as well as the preservation of corridors that allow indigenous groups in isolation to move from one area to another in accordance with their patterns of resource use and their relationship with the environment.

Law 3001 of 2006, on the Valuation and Compensation of Environmental Services

Article 1 establishes that

the objective of this law is to promote the conservation, protection, recovery and sustainable development of the biological diversity and natural resources of the country, through the valuation and fair, timely and adequate compensation of environmental services.



SEAM Resolution 199 of 2013, which establishes the conditions and requirements to certify the environmental services produced by forests. Among the significant elements for the protection of the territory, Article 2 establishes that those who set aside forests in addition to the 25% legal reserve required by the forestry law (Law 422 of 1973) will be able to certify such services.

SEAM Resolution 614 of 2013, establishing the eco-regions of Paraguay. In its recitals it states

that the ecosystem approach is a strategy for the integrated management of land, water and living resources that promotes the conservation and sustainable use of biological diversity in an equitable manner, which contributes to achieving a balance among the three objectives of the Convention on Biological Diversity.

Environmental services are included in a relative manner within the framework of the eco-regions established by this resolution.

### ***Prospecting, exploration and exploitation of mineral and hydrocarbon resources***

Chapter XIII of the Hydrocarbons Law 779 of 1995 establishes the rules for relations with land owners, easements and expropriation possibilities.

Title VIII of Mining Law 3180 of 2007 establishes the relationship between land owners and holders of mining rights (agreements, expropriation and easements).

It should be pointed out that both laws give the concession holder precedence over any other right of possession over the land. In no case are the rights of indigenous peoples mentioned; however, the concessions consulted were subject to not affecting ASPs and lands owned by indigenous communities. The possibility of the existence of groups in isolation is not contemplated in any case.

### ***Prior consultation***

Resolution of the National Indigenous Institute (INDI) 2039 of 2010, which establishes the obligation to request the intervention of INDI for all consultation processes in indigenous communities. It provides that INDI will establish, on a case-by-case basis, the guidelines that must be complied with in each consultation; these guidelines depend on the subject of the consultation and the organization and culture of the community affected.

### ***Cultural regulatory regime***

Law 5621 of 2016, on the protection of cultural heritage. The aims of the law include “creating mechanisms for consultation with the general public and with indigenous communities in particular, pursuant to the provisions of current international conventions” in order to fulfill its objective, which is “the protection, safeguarding, preservation, rescue, restoration and registration of cultural property throughout the country”.

Article 5, paragraph b, states that the cultural properties covered by this law include the following

expressions, traditions and knowledge from sectors that maintain and elaborate collective memories or introduce innovations based on their own cultural processes. Such sectors are made up of indigenous peoples [...]. These manifestations make up the living heritage of the country: rituals, festivities, artistic expressions and languages insofar as they correspond to the subject matter of this Law.

In paragraph e of the same article, it emphasizes that “the territorial space necessary for the maintenance and development of indigenous cultural forms” is also part of the cultural property.

Resolution of the National Secretariat of Culture (SNC) 1104 of 2019, approving the National Protocol for Preventive Interventions for Archaeological and Paleontological Heritage. The protocol (Schedule I to the Resolution), in Article 2, subparagraph 4, establishes that the projects affected by this protocol will require an evaluation prior to their execution and applies to “Public or private projects to be carried out in protected areas, natural reserves or national parks included in the National System of Protected Areas”.

Article 3, subparagraph a, states that its application is mandatory for “infrastructure or development projects submitted by public or private institutions that are carried out in historic sites, ensembles or historic centers, protected areas, reserves or natural parks”.

Subparagraph b of the same article refers to those private projects where there is no previous infrastructure, indicating that it is applicable to any

agricultural and livestock exploitation of more than 100 hectares on land where there is no previous infrastructure or permanent human settlement. Exploitation areas that are smaller in size will not require prior evaluation, but the owner and the personnel in charge of them must abide by the provisions of Law 5621 of 2016, Article 28 “General Obligation to Communicate”.

The protocol is relevant to the protection of archaeological sites and temporary use by the Ayoreo PIA within their territory.

## **Peru**

Peru does not constitutionally recognize the rights of PIACI, however, its legislative development is the most extensive in the region. The Special Rapporteur on the rights of Indigenous Peoples went so far as to state that “in many ways, the legislative and programmatic framework for the protection of Indigenous



Peoples in Isolation and Initial Contact in Peru is exemplary. However, it is clear that it needs to be strengthened, especially in its implementation”.

- \* Article 1 of the Peruvian Constitution establishes that “the defense of the human person and respect for his dignity are the supreme goal of society and the State”.
  - \* Decree Law 22175 dated May 9, 1978. Law on Native Communities and on the Agricultural Development of the Rainforest and Rainforest Edge (determines the demarcation of the territory of communities in initial contact).
  - \* Legislative Resolution 26253 dated December 5, 1993. Ratifies ILO Convention 169.
  - \* Supreme Decree 038-2001-AG dated June 22, 2001. Regulations of the Law on Protected Natural Areas. Determines the safeguarding of the rights of peoples in voluntary isolation or initial contact in protected natural areas.
  - \* Regulates the provisions related to PIACI that inhabit or move through PNAs, among others:
    - > The PNA creation mechanisms safeguard ownership rights and other rights of PIACI, in the event that there are reasonable signs of their existence in these geographic areas.
    - > Respect for ancestral uses linked to the subsistence of PIACI that inhabit or move through PNAs.
    - > Authorization for activities to take place within a PNA, which in no case can involve the use of areas where SERNAP has established precautionary measures to protect PIACI.
    - > No concessions are granted in Strict Protection Zones or areas where SERNAP has established precautionary measures to protect PIACI.
1. Ministerial Resolution 427-2002-AG. Creates the Madre de Dios Territorial Reserve.
  2. Supreme Decree 028-2003-AG. Raises the level of protection and recognition of the “Kugapakori Nahua Nanti Territorial Reserve and other reserves”, located in the departments of Cusco and Ucayali, as a State Territorial Reserve.
- \* Law 28611 of 2005, General Environmental Law. It states that in the design and implementation of environmental policy and the environmental land use planning process, the rights of indigenous peoples recognized in the Peruvian Constitution and in international treaties ratified by the State must be safeguarded. It also states that studies and projects for the exploration, exploitation and use of natural resources authorized on the lands of these populations must adopt the necessary measures to avoid detriment to their cultural, social and economic integrity and their traditional values.
  - \* Law 28736 of 2006. Establishes the special transectoral regime for the protection of indigenous or native peoples in isolation and initial contact

(known as the “PIACI Law”). It is the most important specific regulation for the protection of PIACI in Peru. The Special Transectoral Regime (RET) for the protection of the rights of PIACI adopts mechanisms and provisions to guarantee their living conditions, particularly their rights to life and health, safeguarding their existence and integrity. It contains the generic guidelines for the recognition of these peoples and for the categorization of indigenous reserves, through studies to be carried out by the corresponding Multisectoral Commission.

- \* Supreme Decree 008 of 2007-MIMDES. Regulation of Law 28736. Establishes the mechanisms for the protection of the rights of PIACI. Amended in 2016 by Supreme Decree 008-2016-MC:

### Title Three. Indigenous Peoples in Isolation and Initial Contact and Indigenous Reserves

#### Chapter I. Recognition of Indigenous Peoples in Isolation and Initial Contact.

Article 10. Start of procedure. The process of recognition of a people in isolation and initial contact begins with a request addressed to the VMI of the MC, which must necessarily be submitted by a regional Government, local Government, academic institution, Amazonian indigenous organization or native community. Likewise, the VMI may initiate the process *ex officio*.

Once the request is received, the VMI will submit the documentation to the DGPI for the technical assessment of the request, based on reliable and scientifically rigorous evidence of the existence of a people in isolation or initial contact.

The assessment shall be communicated to the requesting party within a term not exceeding fifteen business days from the filing of the request.

Upon favorable assessment, the VMI of the MC will resubmit the file to the Multisectoral Commission.

As mentioned above, it is worth mentioning that, in accordance with the established procedure, the request and the accompanying documentation, which have been received by the VMI, are resubmitted to the DGPI, entity responsible for the technical assessment of the request and for sending the corresponding communication to the requesting party within an established period of time. In the event of a favorable assessment, the process continues with the DGPI convening a “Multisectoral Commission”,<sup>141</sup> with the purpose of propo-

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<sup>141</sup> The composition of the Multisectoral Commission is established by Article 11 of Supreme Decree 008-2007-MIMDES: “(a) A representative of the DGPI of the MC, acting as president; (b) a representative of the Ombudsman’s Office; (c) a representative of the Ministry of Agriculture and Irrigation; (d) a representative of the Ministry of Environment; (e) a representative of the Ministry of Defense; (f) a representative of the Ministry of Health; g) a representative of the Ministry of Education; h) a representative of the Ministry





sing to said entity the technical team in charge of preparing the required document referred to as Preliminary Recognition Study.

The procedure only establishes the contents or structure of the EPR<sup>142</sup>:

An anthropological analysis containing studies of the oral tradition in the area of influence, kinship relations with possible nearby communities and physical evidence, with a registration period of no more than three years, found by the Technical Fieldwork Team, which supports the existence of a people in isolation or initial contact. Likewise, the Preliminary Recognition Study must identify the people and indicate an estimate of their population and the lands they inhabit (Supreme Decree 008 of 2007-MIMDES, ARTICLE 17).

It is worth noting that current national and international regulations establish the State's obligation to guarantee the rights of PIACI over their "traditional" territories and to establish Indigenous and Territorial Reserves over the areas that PIACI "occupy and to which they have had traditional access".

Therefore, evidence older than the last three years is also considered extremely important and necessary for the studies required by law (EPR and EAC), and is based on Article 4 of Law 28736 ("PIACI Law"), which states:

Article 4. Rights of members of peoples in isolation or initial contact. The State guarantees the rights of indigenous peoples in isolation or initial contact, assuming the following obligations towards them: a) To protect their life and health, by developing preventive actions and policies as a priority [...], f) To establish indigenous reserves, which will be determined on the basis of the areas they occupy and to which they have had traditional access.

Likewise, Article 14.1 of ILO Convention 169, which has constitutional status and has been in force in Peru since 1995, states:

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of Energy and Mines; i) a representative of the Ministry of the Interior; j) a representative of the Regional Government, where the people in isolation and initial contact are located. In the event that the area involves the jurisdiction of more than one regional government, a representative of each of them will be considered; k) a representative of the Provincial Local Government, where the people in isolation and initial contact are located. In the event that the area involves more than one province, one representative from each province will be considered; l) a representative specialized in anthropology from a national university, designated by the National Assembly of Rectors; m) a representative specialized in anthropology from a private university, designated by the National Assembly of Rectors; n) a representative of the Interethnic Association for the Development of the Peruvian Rainforest (AIDSESEP), an indigenous organization with national representation; and o) a representative of the Confederation of Amazonian Nationalities of Peru (CONAP), an indigenous organization with national representation. The DACI of the DGPI will act as Technical Secretariat of the Multisectoral Commission".

<sup>142</sup> Supreme Decree 008-2016-MC, Article 03-e: Fieldwork studies prior to the categorization of a people in isolation and initial contact.

The peoples involved shall be granted the right of ownership and possession over the lands they traditionally occupy. In addition, in appropriate cases, measures shall be taken to safeguard the right of peoples involved to use lands not exclusively occupied by them, but to which they have traditionally had access for their traditional and subsistence activities. In this regard, particular attention should be paid to the situation of nomadic peoples [...]. 2. Governments shall take such measures as may be necessary to determine the lands which the peoples concerned traditionally occupy and to ensure the effective protection of their rights of ownership and possession.

Both the national and international regulatory frameworks establish the legal obligation of the State to recognize and protect the “traditional” territories of PIACI.

In order to determine and protect the traditional territories of these peoples, it is necessary, and extremely important, to also consider and value evidence older than the last three years in the analysis of the EPR and EAC studies. In other words, according to current regulations, all evidence is considered valid for official studies, regardless of its period of registration or age. The most recent evidence (from the last three years) is used to demonstrate the continuous and current occupation of a certain area of their territory by PIACI. In turn, the “older” evidence (which period of registration dates from the last 3–60 years) is also considered valid and necessary to reconstruct the occupation, traditional access and use of the territory by PIACI, in order to “confirm” the existence of PIACI and delimit the reserves established by the State in their favor.

In addition to the technical team in charge, the procedure contemplates that the Multisectoral Commission may also convene experts “to provide their opinion, when deemed appropriate” (Law 28736, Article 2). The EPR must be submitted by the Commission to VMI no later than six months from the time the original request was favorably assessed. This phase ends, if favorable, with the recognition by a supreme decree of the people in isolation or initial contact.

According to Law 28736 and its regulation, Supreme Decree 008–2007–MIMDES, the recognition of an indigenous people in isolation through the corresponding Supreme Decree is considered the first phase of the process of creating an Indigenous Reserve —the specific territorial figure recognized by the Peruvian framework for the protection of PIACI—, defined as

lands delimited by the Peruvian State, of transitory intangibility, in favor of indigenous peoples in isolation or initial contact, and as long as they maintain such situation, in order to protect their rights, their habitat and the conditions that ensure their existence and integrity as peoples (Law 28736, Article 2) (ILPe, 2024, p. 16).

- \* Ministerial Resolution 797 of 2007. Ministry of Health of Peru. Approves the Technical Guide “Relationship for Cases of Interaction with Isolated



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or Recently-Contacted Indigenous Peoples”, with the purpose of orienting the human resources of the fixed and mobile supply of health services, in the behaviors and decisions to be made before the diverse possibilities of relationship with isolated indigenous populations.

- \* Ministerial Resolution 798 of 2007. Ministry of Health of Peru. Approves the Technical Guide “Health Care for Indigenous People in Recent and Initial Contact at Risk of High Mortality”, with the aim of guiding health personnel in the behaviors and decisions for the provision of services within the framework of respect that the culture of indigenous people in recent and initial contact deserves, developing culturally appropriate activities and procedures for the prevention, contingency and mitigation of negative health impacts.
- \* Ministerial Resolution 799 of 2007. Ministry of Health of Peru. Approves the issue of “Contact and mitigation of health risks in scenarios with the presence of isolated and recently-contacted indigenous people”, with the aim of developing the criteria, relationship strategies, activities and culturally appropriate procedures that the health sector should consider with regard to measures for the prevention, contingency and mitigation of negative impact in the face of the existence of and interaction with indigenous peoples in isolation, recent contact and initial contact.
- \* Regional Ordinance 008-2007-GRU-CR dated April 23, 2009. Ordinance of the Regional Government of Ucayali that declares of regional public interest the protection of PIACI of the Mashco Piro, Murunahua and Isconahua Territorial Reserves.
- \* Law 29565 of 2010. Law of Creation of the Ministry of Culture. Creates the Ministry of Culture, defines its legal nature and programmatic areas of action, regulates the exclusive and shared competencies with regional and local governments and establishes its basic organizational structure.
- \* Supreme Decree 002-2010-MC. Approves mergers of entities and bodies within the Ministry of Culture. Among them, the Ministry of Culture will take over the National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples (INDEPA), which had responsibilities and competencies over PIACI.
- \* Regional Ordinance 006-2011-GRMDD/CR of 2011. Ordinance of the Regional Government of Madre de Dios that creates and establishes the Special Commission for the protection and defense of the rights of indigenous peoples in voluntary isolation and initial contact in the Madre de Dios region.
- \* Law 29763. Forestry and Wildlife Law and its four regulations enacted in September 2015. Contains provisions related to the protection of PIACI, among others:
  - > Preparation of contingency plans for permits located in areas close to Territorial or Indigenous Reserves or where there are reports of proximity to PIACI. These plans are prepared by permit holders.

- > Obligation of permit holders to report to the Ministry of Culture the sightings, remains, traces, objects or any indication that denotes the presence of PIACI, in order to take the necessary measures, which may include compensation of areas under permit.
  - > The category of special treatment zone is assigned to the Territorial or Indigenous Reserves, and no permits are granted therein.
  - > No authorization for logging in Territorial or Indigenous Reserves.
  - > The granting of forest concessions in areas in process for the establishment of Indigenous or Territorial Reserves is expressly prohibited.
- \* Supreme Decree 001-2012-MC. Regulation of Law 29785, Law on the Right to Prior Consultation of Indigenous or Native Peoples recognized in ILO Convention 169. Establishes, under the Vice-Ministry of Interculturality, to take protective measures when it is determined that the exploitation of natural resources in indigenous territories is considered a public need.
- \* Supreme Decree 007-2013-MC. Approves the mechanisms to channel the payment of economic compensations or other similar concepts, exclusively for the protection and benefit of PIACI located in the Indigenous Reserves or Territorial Reserves, in which the activity of exploitation of any natural resource is carried out.
- \* Vice Ministerial Resolution 004-2013-VMI/MC. Creates records of PIACI and Indigenous Reserves under the responsibility of the Vice-Ministry of Interculturality, under the supervision of the General Directorate of Rights of Indigenous Peoples.
- \* Vice Ministerial Resolution 008-2013-VMI/MC. Approves Directive 001-2013-VMI/MC, "Rules, Guidelines and Procedures for the Registration of PIACI and the registration of Indigenous Reserves", which aims to regulate the procedure for the incorporation of information in the Record of PIACI, as well as Indigenous Reserves.
- \* Supreme Decree 017-2013-RE. Regulates Law 29778 or Framework Law for Border Development and Integration, in the sense of establishing as a criterion for the assessment of critical border area the existence of PIACI located in Territorial or Indigenous Reserves or in areas where there is official information about their presence, due to their special characteristics and high degree of vulnerability.
- \* Directive 001-2013-VMI/MC. Establishes the "Rules, guidelines and procedures for the registration of peoples in isolation and initial contact and the registration of Indigenous Reserves". As approved by Vice Ministerial Resolution 008-2013-VMI/MC (*vide supra*). This directive designates the DGPI of the Vice-Ministry of Interculturality as the body responsible for maintaining and updating the Record of PIACI, as well as the Record of Indigenous Reserves.



- \* Vice Ministerial Resolution 005-2014-VMI/MC. Approves Directive 002-2014-VMI/MC, “Guidelines for the preparation of the Contingency Plan provided for in the Regulation for environmental protection in hydrocarbon activities, approved by Supreme Decree 015-2006-EM, with regard to indigenous peoples in isolation or initial contact–Anthropological Contingency Plan (PCA)”.
- \* Vice Ministerial Resolution 006-2014-VMI/MC. Approves Directive 003-2014-VMI/MC, “Rules, guidelines and procedures that regulate the implementation of Supreme Decree 007-2013-MC”, which aims to facilitate the implementation of mechanisms to channel the payment of economic compensation or other similar items provided for in Supreme Decree 007-2013-MC, to allocate those resources to the protection of PIACI.
- \* Vice Ministerial Resolution 012-2014-VMI/MC. Approves Directive 004-2014-VMI/MC, “Rules, guidelines and procedures that regulate exceptional authorizations to enter Indigenous Reserves”, which aims to facilitate exceptional authorizations to enter Indigenous Reserves, as established in Article 6 of Law 28736.
- \* Supreme Decree 001-2014-MC. Declares the recognition of PIACI located in the Territorial Reserves called “Madre de Dios”, located in the State of Madre de Dios; “Isconahua”, “Murunahua” and “Mashco Piro”, located in the department of Ucayali, and the Territorial Reserve “Kugapakori, Nahua, Nanti and other reserves”, located in the departments of Ucayali and Cusco.
- \* Regional Executive Resolution 1040-2014-GRU-P. Approves the update of the Regional Plan for the Protection of Indigenous Peoples in Isolation and Initial Contact of Ucayali (2015-2020).
- \* Ministerial Resolution 240-2015-MC. Approves the “Protocol of action upon discovery, sighting or contact with Indigenous Peoples in Isolation and for relations with Indigenous Peoples in Initial Contact”. It also defines the principles: *pro homine* principle, principle of no contact, no harm principle, principle of vulnerability, principle of self-determination and principle of prevention.
- \* Ministerial Resolution 341-2015-MC. Approves the “Protection plan for PIACI of the Kugapakori, Nahua, Nanti Territorial Reserve and other reserves (2016-2020)”, a specific management instrument that helps strengthen the integrated and multisectoral management of the Kugapakori, Nahua, Nanti Territorial Reserve and other reserves (RTKNN), in coordination with the local population and indigenous organizations.
- \* Legislative Decree 1237 of 2015. Amends the Criminal Code, incorporating as an aggravating circumstance of the crimes regulated in the code if the victim belongs to a PIACI. In addition, it incorporates as aggravating circumstances the crimes of illegal trafficking of wild flora and fauna species, predation of wild flora and fauna, trafficking and illegal extraction of wild flora and fauna species, and the case of extraction of species from Territorial or Indigenous Reserves. It also regulates as an aggravating circumstance crimes against forests and the crime of illegal

trafficking of timber products, if they are committed within Territorial or Indigenous Reserves.

- \* Supreme Decree 018-2015-AG. Forest Management Regulations.
- \* Supreme Decree 019-2015-AG. Wildlife Management Regulations.
- \* Supreme Decree 020-2015-AG. Regulations for the Management of Forest Plantations and Agroforestry Systems.
- \* Supreme Decree 021-2015-AG. Regulations for Forestry and Wildlife Management in Native Communities and Peasant Communities. Regarding PIACI, the regulations develop the provisions established in Law 29763, emphasizing the following:
  - > The mandatory implementation of contingency plans for the protection of PIACI by permit holders.
  - > Minimum content of contingency plans: measures for the suspension of activities and withdrawal of personnel, emergency communication protocol, application of the principle of no contact.
  - > The guidelines for the development of contingency plans for the protection of PIACI are approved by the Ministry of Culture.
  - > The granting of forest concessions in areas in process for the establishment of Indigenous or Territorial Reserves is expressly prohibited.
- \* Supreme Decree 007-2016-MC. Declares the Categorization of the Isconahua, Mashco Piro and Murunahua Indigenous Reserves.
- \* Legislative Decree 1374 of 2018. Establishes the sanctioning regime for non-compliance with the provisions of Law 28736, law for the protection of indigenous or native peoples in isolation and initial contact.
- \* Supreme Decree 010-2019-MC. Regulations of Legislative Decree 1374. Establishes the sanctioning regime for non-compliance with the provisions of Law 28736, law for the protection of indigenous or native peoples in isolation and initial contact.
- \* Ministerial Resolution 451-2020 (Ministry of Health). Establishes guidelines for the prevention of respiratory infections and COVID-19 in areas close to indigenous population in isolation and initial contact in Peru.
- \* Supreme Decree 015-2021-MC. Declares the categorization of the North and South Kakataibo Indigenous Reserve.
- \* Supreme Decree 007-2021-MC. Declares the categorization of the Yavari Tapiche Indigenous Reserve
- \* Supreme Decree 010-2022-MC. Declares the recognition of the Aewa, Taushiro, Tagaeri, Taromenane and Záparo indigenous peoples in isolation, corresponding to the scope of the request for the creation of the Napo, Tigre and Tributaries Indigenous Reserve.
- \* Ministerial Resolution 0427-2002-AG. (Ministry of Agriculture). Declares the area occupied by indigenous peoples in voluntary isolation, located in the department of Madre de Dios, a State Reserve.
- \* Supreme Decree 004-2024-MC. Categorization of the Sierra del Divisor Occidental Indigenous Reserve.





In the case of Ecuador, mention was made of the precautionary measure and the case of the Tagaeri and Taromenane; in Peru, reference was made to MC 262-05 and Case 13572, related to the protection of the Mashco Piro PIA.

### ***Precautionary Measure 262-05. Mashco Piro, Yora and Amahuaca Indigenous Peoples in Voluntary Isolation***

*Entity: IACHR.*

*Country: Peru.*

*Date of submission: November 7, 2005.*

*Procedural status: In force.*

Main facts: the request for precautionary measures originated in 2005 after an incident between Mashco Piro indigenous people living in isolation and loggers operating in their territory, which resulted in the death of one of the loggers. Given the high risk that the presence of third parties implies for the survival of peoples in isolation, and the possibility of retaliation against them by loggers, the IACHR ordered the Peruvian State to “adopt all necessary measures to guarantee the life and personal integrity of the members of the Mashco Piro, Yora and Amahuaca indigenous peoples in voluntary isolation, especially the adoption of measures to avoid irreparable damage resulting from the activities of third parties in their territory.” Over the years, the presence of third parties in the territory of the Mashco Piro, Yora and Amahuaca PIACI has been sustained, and has undergone some variations in the dynamics and mode of operation in the territory. Currently, the existence of operational forestry concessions and the presence of illegal activities (mining and drug trafficking) perpetuate the urgent and serious situations that threaten the survival of these particularly vulnerable peoples.

### ***Case 13.572. Mashco Piro, Yora and Amahuaca indigenous peoples. Territorial Reserve of the State of Madre de Dios***

*Entity: IACHR.*

*Country: Peru.*

*Date of submission: October 24, 2011.*

Procedural status: Merits. On April 20, 2018, the IACHR combined the admissibility and merits proceedings (under Article 36.3 of the Regulations).

Main facts: the case deals with the violation of the rights of the Mashco Piro, Yora and Amahuaca PIACI as a result of: 1) the lack of recognition and intangibility of their integral territory; 2) the presence of extractive<sup>143</sup> and infrastructure projects;<sup>144</sup> 3) the presence of third parties in PIACI territory, which has led to a permanent emergency situation due to the risk of contact and conflicts with external actors (including incidents and encounters with violence); and 4) the lack of implementation of a sanitary protection cordon in

<sup>143</sup> Forestry concessions and hydrocarbon lots numbers 187 and 157.

<sup>144</sup> Road projects: roads MD-104; Ucayali UC-106, Nuevo Edén-Bocas Manu-Boca Colorado; Iñapari road (Puerto Esperanza).

areas surrounding PIACI territory to prevent the transmission of diseases and respond to possible health emergencies.

Rights violated: legal status (ACHR, art. 3), life (ACHR, art. 4.1), integrity (ACHR, art. 5.1), fair trial (ACHR, article 8), honor and dignity: private life (ACHR, article 11), collective ownership (CADH, article 21), equality (ACHR, article 24), legal protection (ACHR, article 25) and economic, social and cultural rights: food, health and environment (ACHR, article 26).

## **Venezuela**

The Venezuelan State does not have a specific legal framework for the protection of PIACI because it does not recognize their existence. However, in the legislative sphere, there is a set of regulations adopted by the Venezuelan legal system for the comprehensive protection of indigenous peoples and their collective life in general, which may serve for the adoption of specific measures aimed at the protection and safeguarding of groups of indigenous peoples who, in Venezuela, maintain a certain relative isolation or little contact. These regulations have been mentioned in the section “Guiding Principles for the protection of PIA and PICI”.

The Bolivarian Republic of Venezuela, in its Constitution,<sup>145</sup> recognizes itself as a multiethnic and multicultural society, and has a whole chapter on indigenous peoples. This is an extensive set of articles that recognizes their existence as native peoples, as well as their social, political and economic organization, their own justice systems, cultures, uses and customs, languages and religions, habitats and rights over the lands they ancestrally and traditionally occupy. Likewise, the Venezuelan State ratified Convention 169 on Indigenous and Tribal Peoples in Independent Countries, adopted in 1989 by the ILO, and has added a set of laws such as the Law on Habitat and Land Demarcation (2001), the Organic Law on Indigenous Peoples and Communities (2005), the Law on Indigenous Languages (2007) and the Law on Cultural Heritage of Indigenous Peoples and Communities (2009). In this context of legal strengthening in favor of indigenous peoples, which seems to focus on a particular period, we add as data the existence of 51 indigenous peoples in the country, representing 2.8% of the national population<sup>146</sup> (ILVe, 2024, pp. 3-4).

However, these important advances in the constitutional and legal framework make no mention of peoples or communities in voluntary isolation and initial contact. The Inter-American Commission on Human Rights itself

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<sup>145</sup> “It shall recognize the existence of indigenous peoples and communities, their social, political and economic organization, their cultures, uses and customs, languages and religions, as well as their habitat and native rights over the lands they ancestrally and traditionally occupy and which are necessary to develop and guarantee their ways of life” (Article 119).

<sup>146</sup> “La población indígena de Venezuela Censo 2011”. See <https://ine.gob.ve/documentos/SEN/menuSEN/pdf/subcomitedemografica/Indigena/BoletinPoblacionIndigena.pdf>.



(IACHR and OAS, 2013) refers that the response sent by the Ministry of Popular Power for Foreign Affairs of Venezuela to the Questionnaire for Consultation on Indigenous Peoples in Voluntary Isolation and Initial Contact, carried out by said entity, “expressed that in the Bolivarian Republic of Venezuela there are currently no indigenous peoples in voluntary isolation or initial contact” (ILVe, 2024 p. 4).

Similarly, the summary of the working meeting on international law standards on the human rights of indigenous peoples in voluntary isolation and initial contact in the Amazon and Gran Chaco held by the rapporteurs on the rights of indigenous peoples of the universal and inter-American protection systems, registered this same denial and that, in addition, the Venezuelan national representation “considered that all indigenous peoples were integrated into national political life”. This means that there is no specific legislation on the matter either.

However, the Ombudsman’s Office of the Bolivarian Republic of Venezuela stated in its response to the same instrument that

Venezuela has communities belonging to three indigenous peoples that remain in relative isolation or initial contact. These indigenous peoples live in the south of the country in the states of Amazonas and Bolívar, they are the Hoti, Yanomami and Piaroa (ILVe, 2024, p. 4).

In turn, for the “Regional Report: Territories and Development, Indigenous Peoples in Isolation in the Amazon and Gran Chaco” (Vaz, 2019, p. 25), of which Wataniba is an integral part, the information on PIACI was updated, together with ORPIA. A report was submitted to the Rapporteur on Indigenous Peoples of the Inter-American Commission on Human Rights and the Office of the United Nations High Commissioner for Human Rights, where it was reiterated that the Venezuelan State does not recognize PIA, but the Ombudsman’s Office acknowledges the existence of these peoples, in addition to the information on the development of a regulatory proposal. “A State body, the Ombudsman’s Office, has managed not only to recognize their presence, but also to make proposals to bodies such as the National Constituent Assembly, trying to include in the Constitution a reference to PIA” (Vaz, 2019, p. 35). The same report states that

some entities of the Ministry of Health not only recognize the presence of isolated or recently-contacted groups, but also have some concrete actions that go along the lines of special protection, promoting their recognition and specific health care (Vaz, 2019, p. 35).

This information has been confirmed by Gumersindo Castro, ombudsman for the Amazonas State, in a recent interview, who says that although there is no official recognition, the Ombudsman’s Office, as a human rights body, maintains permanent links with authorities, grassroots organizations, indigenous peoples and communities, affirming that “indigenous peoples in voluntary

isolation exist and form part of the environment of indigenous peoples”; to which he adds, “we consider it important, seeing the advance of illegal activities in these areas, that the indigenous peoples have expressed the need to make visible and advance in the protection of peoples in voluntary isolation” (Gumersindo Castro, interview conducted by the Wataniba team). Castro emphasizes, regarding indigenous peoples and communities in isolation, that it is the elders who communicate with these peoples, and that these peoples are linked to sacred places:

Those who have more contact with these peoples are our traditional authorities, the chiefs of the communities who have the power to connect with other worlds, and one of the worlds is this one, that of the indigenous peoples in voluntary isolation. Normally, these peoples live here in the Amazon, in sacred places (Interview with Gumersindo Castro).

Castro said that agencies of the Ministry of Popular Power for Health, “within the framework of their competencies and policies on care for hard-to-reach communities”, mention the existence of indigenous peoples in isolation in the Amazonas State.

In the context of the pandemic, in the years 2020 and 2021, the Ministry of Popular Power for Health implemented the “Plan for the prevention, containment of infection and control of COVID-19 disease for indigenous peoples and communities”, in which a Community-Based Epidemiological Surveillance Network was created to attend to the indigenous population in isolation. This plan included provisions related to the prevention and care of the disease, indicating that they should be protected by means of sanitary protection cordons. This situation reveals a first recognition and development of a health policy (“Plan for the prevention, containment of infection and control of COVID-19 disease for Indigenous Peoples and Communities”, 2020).

In turn, researcher José Antonio Kelly, who coordinated the Yanomami Health Plan of the Venezuelan Ministry of Popular Power for Health between 2000 and 2003, stated that he worked with the Yanomami of Venezuela, specifically in the Upper Orinoco, Amazonas State. Kelly points out that “the only places where Yanomami communities in voluntary isolation have been reported are in Brazil” (José A. Kelly, researcher and anthropologist, interview conducted by the Wataniba team). However, he states that

there are many regions in initial contact among the Yanomami of Venezuela, especially, but not exclusively, near the border with Brazil [...]. In initial contact, all those in the headwaters of the Siapa, Alto Ocamo, Orinoco, Mayo Theri and Alto Padamo rivers. Basically everything that is near the border with Brazil (Interview with José A. Kelly).

Pancho Blanco, Horonami’s coordinator, in a recent interview, said that the organization plans visits to communities in the territory, including visits to



Credit: Wataniba





communities of Yanomami groups with little or no contact, although there is no evidence of voluntary isolation of communities in very distant places. These routes represent a challenge, as they are very remote places and, in turn, contacting these groups and obtaining their authorization for contact is often complex.

In order to obtain information, several trips are made throughout the territory, including to the border area [...]. You walk for days and nights, and when you find a community where Yanomami live you wonder. Communication is different [...]. The communities welcome us, we talk and tell stories [...] other *shaponos* cannot receive us, sometimes we pass by where the Yanomami live and they cannot approach us, cannot talk, cannot receive us. With some of them we share food and some receive us to tell stories (Interview with Pancho Blanco).

Regarding the dynamics in the territory, Andrés Blanco, an auxiliary of simplified medicine, who participates as a support to the health team, added that they make long trips to know the health situation of communities, and they find many diseases that they cannot treat for not having due treatment or vaccines.

The threat that we see is mining in some communities, which is making the Yanomami sick, because malaria is reproducing and there have been deaths, since it comes back often and they don't take proper care of themselves, even if they use treatment they don't get well and end up dying (Interview with Andrés Blanco).

As to trips throughout the territory referred to by both Pancho Blanco and Andrés Blanco, in a recent conversation, Johanna Goncalves, a Venezuelan physician, anthropologist and epidemiologist, said that in the Yanomami people, the use of the territory and the relations between communities are conceived through paths, which are considered interconnection networks.

Large, weighty alliances, for example, are made travelling large, open, leafless paths, which are not of great distance. While trips to places between communities with few relations are mountainous, with narrow, seldom-used roads and great distances [...]. In addition to the trip, there is also differentiation in language (ILVe, 2024, pp. 4, 8).

Law 41 of 2000. Approves Convention 169 on Indigenous and Tribal Peoples.

Strategic Comprehensive Health Plan for the Yanomami People. Approved on March 26, 2000. Ministry of Health. In the national report addressed to the EPU, in 2012, the State reported that within the framework of this Plan "it treated 6,174 indigenous patients for different pathologies between 2012 and 2014.

Memorandum of Understanding between the Bolivarian Republic of Venezuela and the Federative Republic of Brazil, for the strengthening and integration of actions to achieve the elimination of onchocerciasis in the Yanomami area, dated May 20, 2014. Actions derived from the obligations to care for the Yanomami population as a result of the friendly settlement in the case of the Yanomami Indigenous People of Haximú (massacre committed by garimpeiros (illegal miners) in an area also inhabited by PIACI).

IL.2.S20.D.ONU.1 072 at the Permanent Mission of the Bolivarian Republic of Venezuela to the UN and International Organizations in Geneva; Program: Primary Health Care Yanomami Community Agents (ACYAPS). Also, as a result of the friendly settlement in the case of the Yanomami Indigenous People of Haximú, measures have been implemented to guarantee both the active participation of members of indigenous communities and access to hard-to-reach areas.





## 2.9 Purpose

To inform States and civil society, within their regulatory frameworks, on the necessary inputs for the formulation of their own methodologies for recognizing the existence of PIA in a given context and specific territory, with a view to the prevention, protection, strengthening and self-determination of these peoples.

## 2.10

# Concepts

The methodologies for recognizing the existence of PIA are a set of rules, techniques and procedures adopted to carry out research in order to systematize the evidence of the existence of a given indigenous people in isolation, in a given context and specific territory.

We emphasize that there is no single methodology for recognizing the existence of PIA, as specific and contextual adaptations are necessary for each context (political, geographic, economic, legal and cultural) of a given people, in a given country.

The implementation of methodological practices for the identification and recognition of PIA in South America, based on the self-determination of these peoples, led their agents and agencies to choose conceptually between “direct actions” or “indirect actions”. This option generated heated discussions, more about conceptions than practices, often without taking into account the specific contexts of each case analyzed. An in-depth analysis of these actions reveals practices, built on a daily basis and adapted to the legal requirements of each of their countries, with more similarities than disagreements.

The field actions, in search of evidence of PIA, are characterized by techniques of identification of human evidence in the forest. This knowledge goes beyond the technical because it requires a cultural interpretation, and this knowledge is owned by indigenous peoples, therefore, unknown to non-indigenous people.

It should be noted that these methodologies for the recognition of PIA seek evidence of these peoples and not the peoples themselves. Proof of their existence is sought! The search to find them in the forest goes against the principle of no contact and their rights of self-determination.

For the purposes of this IRM, we will adopt the following concepts:

### 2.10.1 *Direct methodology for the recognition of PIA*

Direct methodologies for the protection and recognition of the existence of PIA are understood as the procedures, strategies and techniques developed through human observation (observational research) in direct field expeditions (provided that the presence of PIA in the region is not proven), the collection of information from bibliographic research, oral and written reports (information elements from third parties) and the analysis of images (mechanical or electronic observation) with the purpose of collecting data, evidence and phenomena that demonstrate the existence of PIA in a given context and specific territory.

The direct methodology, in addition to verifying, in the field, the evidence reported by primary and secondary sources, also plans and executes expeditions in the forest when it is assumed that PIA are not making use of certain areas with the objective of collecting new evidence to subsidize the recognition of these peoples. This evidence, in addition to subsidizing the recognition of these peoples, can



subsidize the territorial occupation of these peoples, as well as show the possible threats to which PIA are subjected.

This search for new evidence is what differentiates this methodology from the indirect methodology, which we will conceptualize below.

### **2.10.2 Indirect methodology for the recognition of PIA**

Indirect methodologies for the protection and recognition of the existence of PIA are understood as the procedures, strategies and techniques developed through human observation (observational research), the collection of bibliographic, oral and written reports (information elements from third parties, primary and secondary sources), confirmed or refuted by means of field expeditions (provided that the presence of PIA in the region is not proven), analysis of satellite or drone images (mechanical or electronic observation), etc., with the purpose of collecting evidence and phenomena, as well as their effects on other events and people, in order to recognize the existence of PIA in a given context and specific territory.

The indirect methodology does not promote field expeditions to collect new evidence, beyond that reported by third parties.

### **2.10.3 Indigenous methodologies for the recognition of PIA**

Indigenous methodologies for recognizing the existence of PIA are understood as the methods, procedures, strategies and research techniques adopted by indigenous peoples, taking into account the specificities of each people. As a whole, they are conceived on the basis of diverse cognitive practices: their ancestral knowledge, their millenary wisdom, the material, spiritual and cultural interdependence established with their territories, natural resources and the coexistence between networks of relationships (which also take into account the transcendental dimension, the forces of nature, entities, spiritual sources), which share the same historical and social context and are an integral and indissoluble part of their worldviews.

### **2.10.4 Scientific methodology**

The scientific methodology is understood as a set of intellectual and technical procedures used to achieve knowledge. It can be replicated in any space, under certain conditions, to achieve the same result.

It should be noted that the subject of study of this IRM is PIA. These peoples, in addition to their physical existence, involve subjectivities, cultures and contexts, and are subjected to pressures in their territories, which translate into constant forced escapes; they also establish intrinsic relationships with the environment based on different worldviews of being, existing and doing, leading us to quantify the definition of scientific methodology applied to the exact sciences, which has already been discussed. In these terms, for the purposes of this IRM we propose the following definitions:

## 2.10.5 *Scientific Methodology applied to human sciences*

The scientific methodology derived from human sciences and, in this case, applied to the recognition of PIA, is understood as a set of intellectual (conception of the world and theories of knowledge) and technical procedures used to translate into theoretical language the elements of historical life, in its broadest meaning, reported and observed by third parties and verified by specialized technical teams in the recognition of indigenous evidence in isolation, located in the forest. In this context, the dimensions of subjectivity are not discarded, but always with recourse to the transformation of structures, of consciousness never separated from social conditioning and class conflicts within the ethnohistorical process.

## 2.10.6 *Indigenous Peoples in Isolation*<sup>147</sup>

“Indigenous Peoples in Isolation [PIA] are indigenous peoples or segments of indigenous peoples who have no contact with the majority population, and who also tend to shy away from any type of contact with people outside their group.”<sup>148</sup>

## 2.10.7 *Concepts of Contacted Indigenous Peoples for PIA*

### **Indigenous peoples in isolation for contacted indigenous societies**

The concepts attributed to indigenous peoples that reject interactions with outsiders, “indigenous peoples in isolation”, have always been the subject of much discussion and lack of consensus. In these reflections, little is said about the way in which the indigenous people themselves, with contact histories, think about these definitions.

In an analysis of “official” nomenclatures, in Brazil, Lucas Manchineri, an indigenous leader and researcher, coined the term “distrustful people” to refer to all “indigenous people who decided not to believe in strangers”. He also states that “isolated” peoples, in fact, do not know the purpose of those who come to meet them and, therefore, are “distrustful”. According to him: “Indigenous peoples have long suffered from the misnomers given by whites [non-indigenous], since the beginning of the contacts of the colonizers of America” (Brasil Manchineri, 2019, p.

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<sup>147</sup> “Isolation should not be understood as a primary condition, but as a result of historical events. To avoid the connotations of primordiality embedded in the notion of contact, the term voluntary isolation was coined to emphasize the agency of indigenous peoples (Shepard, 1996, 2016). However, this term is not neutral either. Although it is partly a decision of the indigenous peoples, isolation cannot be understood as completely voluntary, but as a necessity in a hostile context for their survival (Torres *et al.*, 2021).

<sup>148</sup> United Nations definition found in the Guidelines for the Protection of Indigenous Peoples in Isolation and in Initial Contact of the Amazon Region, Gran Chaco and the Eastern Region of Paraguay, A/HRC/EMRIP/2009/6 09-14447, 2012.



170). From the point of view of their people, the memory of the contact says a lot about the choices of their [isolated] relatives. The Manxineru remember well how they were enslaved, raped and killed (cf. Albert and Ramos, 2002), so it seems more appropriate to attribute the choice of those who do not establish contact with other societies to a lack of confidence in their attitudes, which, for them, is historically very well justified.

Broadening the reflection, some representatives of the Wai Wai, Kahyana, Katxuyana, Heskaryana (Brazil) and other Yana indigenous peoples raised the debate on the concept and term “isolated”. During the training workshop within the scope of the project carried out by Centro de Trabalho Indigenista, in 2016, in Oriximiná (PA), [Brazil], João do Vale Pekiruruwa Kaxuyana, an indigenous elder of the Katxuyana people, who in the 1970s lived with an Ingarëana group in the upper Kaspakuru river, a region where there is reference to peoples in isolation, according to FUNAI data, described:

For us there is no single type of isolated person as you karaiwa would call it. We have our relatives who have always lived like that, far away from some and close to others. We have never lived all together, we have always had our own way of living and we know at least three types of isolated relatives. Those relatives with whom we lived, but with whom we no longer live because some reason separated us, and in this case we were separated because we were taken to another faraway place. Those relatives we always knew were there, they live there, but we do not see them in person out of respect for their traditions, and they also respect ours. And those relatives who have always existed in these woods, but we have never seen them and will never see them, they know we exist and we know they do too, but our encounters are different, and not in person. So this has always existed in our lives long before the contact of any Karaiwa (Interview with João do Vale Pekiruruwa Kaxuyana).

Therefore, when considering these concepts and terms from the perspective of indigenous peoples, we should contemplate the diverse forms of existence of such indigenous peoples in isolation that may not align with non-indigenous definitions of “isolation”. It should be noted that the comments and reports submitted by those who live or share territory with these peoples are intended to enrich the debate on the role and recognition of the role of indigenous peoples in the protection of these peoples, going beyond what is often considered a recent approach. From these reports, and as we will see throughout this text, we can affirm that the approach has always been present in a broad and integrated way of life of indigenous peoples. However, its public and external projection is somewhat more recent, especially as a result of state protection policies that have generated a primary space for this discussion (ILBr, 2024, pp. 10-11).

The Ayoreo people use, in their everyday language, the expression “our brothers/relatives living in the forest”. They do not question the use of “isolated groups or peoples” and express this in their interactions with non-indigenous people;

however, the colloquial way of expressing their relationship with them (“relatives living in the forest”) shows that they are not necessarily conceived as “isolated”, but that they do not want to establish contact and want to continue living as they have done up to now. Interviews with people who made contact in 2004 (the last time they left the forest) show that “the people living in the forest” (Ayoreo PIA groups) are very distrustful of those who “wear clothes” (including Ayoreo who have already been contacted). The same has been expressed by elders and adults who have reflected on the non-recognition of contacted Ayoreo by the uncontacted, in situations of involuntary approach during hunting or gathering trips in shared areas. In this regard, the concept coincides with what was expressed by the indigenous leader Lucas Manchineri (*vide supra*) about the “distrustful people”.

In the Colombian Amazon context, where most of the peoples in isolation are believed to live, the indigenous communities of the territories bordering areas with the presence or possible signs of the presence of PIA consider, in the vast majority of cases, that the appropriate name to refer to them is indigenous peoples in their natural state (PIEN), as stated under the workshop for the dissemination of Decree 1232 among the communities of AIZA, held in 2019:

The appropriate name to refer to them is peoples in their natural state, since their creator gave them everything in order for them to live in their territory of origin. Peoples in their natural state have their own government, their own education and their own health system (ACT, 2024).

The denomination of natural state evokes a strong relationship of PIA with the sites of origin, primordial cosmogonies, knowledge systems and genuine socio-cultural practices that have not been transformed, precisely due to the condition of isolation. Thus, despite possibly being related to other contacted indigenous peoples, PIA are believed to have their own ways of protecting territory and environment, their knowledge systems and their practices.

It has been stated that PIA are segments or clans of contacted groups that at a certain point in history were able, through the strength of their traditional knowledge, rituals and spiritual precautions, to anticipate the threats associated with the arrival of non-indigenous people in their territories. In order to avoid a destiny already marked by thought, they made the decision to reject this contact, going deep into the jungle as a strategy of protection against the transformations that would jeopardize their integrity, their survival and socio-cultural stability.

However, the condition of isolation does not imply that PIA are isolated from the protection network of the territorial system that integrates all Amazonian peoples, nor from other forms of relationship and non-physical contact that are possible in indigenous knowledge systems. Therefore, for the neighboring indigenous peoples, their protection is fundamental not only as a mechanism to guarantee their rights, but also because they are part of a broad system of territorial protection in which they play a relevant role. For example, some indigenous people of the lower Caquetá river in Colombia state that



the mentors or shamans of isolated groups of the Puré river sit at night in their malocas, on their ritual benches, thinking how to prevent outsiders from entering their territory. They use their minds to block its entrances through rivers, streams and roads, thereby protecting their world. By doing this, they not only prevent physical entry into their territory by causing thunder and rain on sunny days, but they also prevent other people from seeing or looking at them or knowing where and how they live. For more than a hundred years, their vital attitude has consisted of refusing contact (Franco, 2012, XVII).

The contacted indigenous people, facing the transformations and challenges brought about by historical contact with the non-indigenous world, see in PIA a living bastion of resistance, autonomy and self-determination. In other words, they are the testimony of societies that continue to safeguard and reproduce their own knowledge systems with the rigor and ancestral vitality necessary to preserve life and territorial management. These systems have been protected with great mistrust as a response to the homogenizing power of the mainstream society, which has precipitated great transformations and the weakening of the knowledge systems and ways of life of the contacted indigenous societies.

Under the precept that there are diverse knowledge systems established in the territory, born in different Amazonian cultural complexes, which aim to sustain the collective existence of human and non-human groups, PIA are strategic actors who, despite their decision to avoid contact, play a fundamental role in the governance and management of territory, as they guarantee its stability, life, abundance and general well-being through the management and healing of the different macro-territorial blocks comprising the Amazonian space.

# 2.11

## Specific guiding principles for PIACI adopted by the States

Table 14 provides a summary of the guiding principles for the protection of PIACI in South American countries.

Table 14. Guiding principles for the protection of PIACI

| Countries                                 | Bolivia <sup>149</sup> |     | Brazil <sup>150</sup> |     | Colombia <sup>151</sup> |     | Ecuador <sup>152</sup> |     | Paraguay <sup>153</sup> |     | Peru <sup>154</sup> |     | Venezuela <sup>155</sup> |     |
|-------------------------------------------|------------------------|-----|-----------------------|-----|-------------------------|-----|------------------------|-----|-------------------------|-----|---------------------|-----|--------------------------|-----|
|                                           | State                  | NGO | State                 | NGO | State                   | NGO | State                  | NGO | State                   | NGO | State               | NGO | State                    | NGO |
| <b>Institutions</b>                       |                        |     |                       |     |                         |     |                        |     |                         |     |                     |     |                          |     |
| <b>Principles</b>                         |                        |     |                       |     |                         |     |                        |     |                         |     |                     |     |                          |     |
| <b>Self-determination</b>                 | X                      | X   | X                     | X   | X                       | X   | X                      |     |                         | X   | X                   | X   |                          | X   |
| <b>No contact</b>                         |                        | X   | X                     | X   | X                       | X   | X                      |     | X                       | X   | X                   | X   |                          | X   |
| <b>Pro homine</b>                         |                        |     |                       |     | X                       |     | X                      |     | X                       | X   | X                   | X   |                          |     |
| <b>Precaution</b>                         | X                      |     | X                     | X   | X                       | X   | X                      |     | X                       |     | X                   |     |                          |     |
| <b>Progressivity and non-regressivity</b> |                        |     |                       |     | X                       |     |                        |     |                         | X   |                     |     | X                        |     |
| <b>Protection / Prevention</b>            | X                      |     | X                     | X   | X                       | X   | X                      |     | X                       | X   | X                   | X   |                          | X   |
| <b>Vulnerability</b>                      | X                      | X   | X                     | X   |                         |     |                        |     | X                       | X   | X                   | X   |                          |     |
| <b>No harm</b>                            |                        |     |                       |     | X                       |     |                        |     | X                       | X   | X                   | X   |                          |     |
| <b>International cooperation</b>          |                        |     | X                     | X   |                         |     |                        |     | X                       | X   |                     | X   |                          |     |
| <b>Territorial intangibility</b>          |                        | X   | X                     | X   | X                       |     | X                      |     |                         | X   | X                   | X   |                          |     |

Source: Vaz (2024).





A set of principles not included in the table above,<sup>156</sup> in addition to those provided therein, constitute the initial prerogatives for the definition of public policies for the safeguarding of PIACI.

We emphasize the following:

- \* The Bolivian State, in Articles 2 and 31, paragraphs I and II of the Political Constitution of the Plurinational State, Law 450 of 2013, Supreme Decree 4793 of 2022 and Ministerial Resolution RM-131-2022 “Protocol for the identification and registration of highly vulnerable native indigenous nations and peoples”, defines the guiding principles and procedures for the “Protection of Native Indigenous Nations and Peoples in a Highly

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<sup>149</sup> Local Report Bolivia (ILBo). Law 450 of 2013. In addition to the principles of the table: regeneration, favorability, cultural diversity and differential approach.

<sup>150</sup> Local Report Brazil (ILBr); FUNAI Ordinance 1900 dated July 6, 1987, referred by FUNAI Ordinance 281 of 2000; *Portería conjunta* 4094 MS/FUNAI, dated December 20, 2018; Resolution 44 dated December 10, 2020, National Human Rights Council (CNDH). In addition to the principles of the table: surveillance, resolution, complementarity and intersectorality and accountability.

<sup>151</sup> Local Report Colombia (ILCo). Decree 1232 of 2018. Prevention and Protection of Indigenous Peoples in Isolation or in their Natural State, Section 1. General aspects, Article 2.5.2.2.1.3. In addition to the principles of the table: *pro persona*, *pro natura*, differential approach, coordination, concurrence and coordination, territorial interdependence, co-responsibility and participation.

<sup>152</sup> Local Report Ecuador (ILEc). Although there is no public policy in official records, the principles (these principles are mentioned in the drafts of the public policy that was submitted by President Rafael Correa in 2007 and its update in 2015) that mark the protection and monitoring of isolated peoples are rights to territory, self-determination and willingness to remain in isolation, reparation, *pro homine*, right to culture, right to prior, free and informed consultation, and precaution. There are also principles in Official Record 002 of 2018, and in Official Record 335 dated September 26, 2018. In addition to those mentioned in the table: irreducibility, dignity, interculturality and interdependence.

<sup>153</sup> Local Report Paraguay (ILPy). The Paraguayan State, not recognizing the existence of PIACI, does not have guiding principles for these peoples; however, the Inter-institutional Commission for the Protection of Indigenous Peoples in Isolation or Initial Contact of the Human Rights Network of the Executive Branch (General Directorate of Human Rights of the Ministry of Justice) approved the “Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation or Initial Contact in the Ayoreo Totobiegosode Natural and Cultural Heritage–PNCAT, located in the Department of Alto Paraguay, Paraguayan Chaco”, which has guiding principles for PIACI.

<sup>154</sup> Local Report Peru (ILPe). Guiding principles for the protection of PIACI established by Ministerial Resolution 240-2015-MC. PIACI Protocol of Action of the Ministry of Culture.

<sup>155</sup> Local Report Venezuela (ILVe). Constitution of the Bolivarian Republic of Venezuela. Organic Law of Indigenous Peoples and Communities, 2009. The Venezuelan State, not recognizing the existence of PIACI, has no guiding principles for these peoples.

<sup>156</sup> Bolivia: regeneration, favorability, cultural diversity, differential approach. Brazil: safeguarding the territory, surveillance, resolution, complementarity and intersectorality, accountability. Colombia: *pro-natura*, differential approach, coordination, concurrence, territorial interdependence, co-responsibility and participation. Ecuador: principles of environmental sustainability, efficiency, reparation, cultural diversity, equality, respect for human dignity, [territorial] irreducibility, dignity, interculturality and interdependence.

Vulnerable situation”, and not specifically for PIACI. In addition to the principles listed in Table 14, they also adopt the following principles: regeneration, favorability, cultural diversity and differential approach.

- \* Bolivian civil society organizations (CEJIS and CITRMD) define their guiding principles for PIACI based on ILO Convention 169, the United Nations Declaration on the Human Rights of Indigenous Peoples and the Political Constitution of the Plurinational State (Articles 2 and 31, paragraphs I and II), Law 450 of 2013, which is expressed in the principle of respect for their right to self-determination, to not be contacted and to live in voluntary isolation. These are also included in chapter five of the Tacana II indigenous “Protocol for Prior Consultation” 2023.
- \* The Brazilian State, based on FUNAI Ordinance 281 of 2000, *Portería conjunta* 4094 MS / FUNAI , 2018, and Resolution 44, CNDH , 2020, defines the guiding principles for the protection of PIACI. In addition to the principles listed in Table 14, the following principles are also adopted: Safeguarding of the territory, Surveillance, Resolution, Complementarity and intersectorality, and Accountability.
- \* Brazilian civil society organizations (COIAB, CTI, EAPIL/CIMI and IM) adopt the same principles defined by the Brazilian State.
- \* The Colombian State, based on Decree 1232 of 2018, defines the guiding principles for PIACI. In addition to the principles listed in Table 14, they also adopt the following: *pro natura*, differential approach, coordination, concurrence and coordination, territorial interdependence, co-responsibility and participation.
- \* Colombian civil society organizations (ACT and OPIAC) adopt the same principles defined by the Colombian State.
- \* In 2007, the President of Ecuador announced a National Policy for Peoples in Voluntary Isolation. However, it has not been formalized by administrative act and has not been published in the Official Record. This draft policy is used unofficially (including in several resolutions and measures), and even adopts the principles defined therein. Interministerial Agreement 002 of 2018 (Ministries of Environment, Hydrocarbons and Justice, Human Rights and Worship), which establishes the “Protocol of Conduct governing the subjects of control that develop hydrocarbon activities in areas adjacent to the Tagaeri-Taromenane Intangible Zone and its buffer zone”, defines, in its Article 3, eight guiding principles, notwithstanding those established in the Constitution of the Republic and international human rights instruments. In addition to the principles in Table 14, they also adopt the following: reparation, cultural diversity, equality and respect for human dignity.
- \* Ecuadorian civil society organizations (FEPP and LIL) adopt the same principles defined by the Ecuadorian State.
- \* The Paraguayan State does not have a specific legal framework for the protection of PIACI. No major legal regulation addresses them in particular. However, the Inter-institutional Commission for the Protection of Indigenous Peoples in Isolation and Initial Contact of the Human Rights



Network of the Executive Branch (General Directorate of Human Rights of the Ministry of Justice), approved, in 2018, the “Protocol of Action, Prevention and Contingency for Indigenous Peoples in Isolation or Initial Contact in the Ayoreo Totobiegosode Natural and Cultural Heritage – PNCAT, located in the Department of Alto Paraguay, Paraguayan Chaco”. This protocol has six principles that govern behaviors for the implementation of procedures for the prevention of unwanted contacts and contingencies, which are shown in Table 14. The Paraguayan State only recognizes it for the particular situation of the PNCAT.

- \* Paraguayan civil society organizations (ia, AGPA, OPIT, UNAP, EAMI) have their own criteria,<sup>157</sup> and are based on the experience gathered over more than twenty-two years of accompanying Ayoreo PIA protection processes and on the 2012 OHCHR Protection Guidelines, a document in which preparation IA participated indirectly. The principle of cultural diversity is added to the above.
- \* The Peruvian State, in Ministerial Resolution 240-2015-MC, which approved the “Protocol for Action upon Discovery, Sighting or Contact with Indigenous Peoples in Isolation and for Relations with Indigenous Peoples in Initial Contact”, in the General Provisions, defines six fundamental principles that should guide the conduct and implementation of procedures in the event of possible relations with PIACI. These principles are listed in Table 14.
- \* Peruvian civil society organizations (FENAMAD, AIDSESEP, etc.) follow the principles defined by the State.
- \* The Venezuelan State does not have a specific legal framework for the protection of PIACI. However, some State institutions have made statements on the subject, such as the Ombudsman’s Office of the Bolivarian Republic of Venezuela and sectors of the Ministry of Popular Power for Health. “A State body, the Ombudsman’s Office, has managed not only to recognize their presence, but also to make proposals to bodies such as the National Constituent Assembly, trying to include in the Constitution a reference to PIA” (Vaz, 2019, p. 25). The same report notes that “some entities of the Ministry of Health not only recognize the presence of isolated or recently-contacted groups, but also have some concrete actions

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<sup>157</sup> The principle of “not initiating any kind of contact attempt” and respecting the physical spaces temporarily occupied by isolated indigenous groups, not approaching them until the group withdraws, is the basis of this “own judgment”. Under this concept, the group of experts assists those who have had a close experience, among other things, not to take objects or horticultural products from the places where the isolated Ayoreo group is located; not to try to make contact or bring them things (food, clothes, utensils) thinking that it will make their lives easier; not to pursue them when they take garden products, wires, iron or any object they need to make their tools from the workers’ campsites or from the vicinity of the settled communities; not to interpret an attempted contact when they approach ranch waterholes or communities in search of water, especially in times of drought; to temporarily stop work when in front of or in the vicinity of an isolated Ayoreo orchard, a hut in use or recent footprints on forest trails (ILPy, 2024, p. 32).

that go along the lines of special protection, promoting their recognition and specific health care” (ILVe, 2024, p. 5). In this regard, in Venezuela, although no specific policies are enacted for PIA (and PICI), in the case of principles, those defined for indigenous peoples in general are used, despite not recognizing the specificity of these peoples, such as the principle of “no contact”, among others.

- \* Venezuelan civil society organizations (Wataniba, ORPIA, OIPUS, Horonami) define their guiding principles for the protection of PIA: self-determination, no contact and protection.

Among the guiding principles for the protection of PIACI, of the seven countries described, the principle of no contact is what specifically characterizes the situation of isolation, it is the articulating axis around which the rights of peoples in isolation stem and the actions and practice of their protection are arranged, —including their identification and methodologies for the recognition of their existence—. This principle responds to the wishes of PIA, expressed through attitudes and expressions of rejection of relationships with people outside their group. Even without talking to them, all the work done in the field presents evidence that these people refute relationships with people outside their group. These signs are characterized by details left by isolated people in the forest: shamanic, clan or other signs that warn others of their presence, weapons thrown against machinery in attacks defending their crops (Ayoreo, Paraguay), traps such as sharp thistles camouflaged in roads to pierce the feet of passers-by (isolated people of the Masaco Indigenous Land, Brazil), tree branches intercepting roads (Mascho Piro, Peru), shouting or throwing objects to scare intruders away from their territories (Ayoreo PIA, Paraguay), attacks on people entering their territory (isolated people from the Uru-Eu-Wau-Wau TI, Brazil), arrows, spears or broken bows grouped at the edge of the river, crossed on a path or trail blocking its transit, pinned to a tree or an animal, or camouflaged, etc.

Over the past fifty-five years, PIA (Yuri and Passé) have had sporadic encounters with hunters, cocaine traffickers, missionaries, guerrillas, loggers, among others. They have avoided permanent contact with any of them by using different strategies, such as migrating to increasingly inaccessible places, setting death traps on the roads, scaring those who manage to enter their territory, abandoning their malocas when strangers arrive and, in some cases, confronting them with their thought or spiritual force, hand in hand with wind, lightning and rain (Franco 2012).

Although, in some situations, isolated individuals or groups may be observed at certain times of the year (sightings), mainly along riverbanks, —during turtle spawning seasons—,

or when they take garden products, wire, iron or any object they need to make their tools from workers’ campsites or the vicinity of settled communities; no attempted contact should be interpreted when they approach the watering places of farms or settled communities in search of water, especially in times of drought (ILPy, 2024, p. 32).

These situations do not characterize an attempted contact. These are periodic seasonal movements that are part of their territorial management, in search of food or any objects required. We should interpret the approach to artificial ranch waterholes, or even their hull in search of water in times of extreme drought by the groups of the Ayoreo PIA similarly.



## 2.12

# Guiding principles for recognition of PIA

The principles, which underlie the entire PIA protection policy, must also be reflected in the methodologies for the recognition of these peoples.

The principles shown below are total or partial reproductions, or even inspired by the principles mentioned in local reports, contained in the legal frameworks of the States or those defined by civil society organizations in their methodologies and by multilateral organizations.

### 2.12.1 *Principle of self-determination*<sup>158</sup>

The self-determination of PIA is a fundamental right that must be respected and protected. In this regard, appropriate action strategies will be implemented to guarantee their physical integrity and protect the areas inhabited by these peoples, respecting the principle of preserving their characteristic ways of life. This right derives from the self-determination of these peoples, which in many cases has been affected by external aggressions. To ensure this, it is crucial to respect their territory, their culture, their ways of life and development, their heritage and their decision to be isolated. The heritage of these peoples includes all expressions of their relationship with the land (tangible and intangible), with other living beings and spirits sharing that territory, and is the basis of their social, economic and diplomatic interactions with other peoples with whom they share the territory.

1. It is important to understand that all aspects of an indigenous people's heritage are interconnected and cannot be separated from their traditional territory. Therefore, each indigenous people must have the autonomy to decide which tangible and intangible elements are part of their heritage. Respecting and protecting the self-determination of PIA is essential to ensure their long-term survival, cultural identity and well-being.
2. Respect for the principle of self-determination, at the State level, is ensured through a system of technical, methodological and regulatory protection, with sufficient human resources of sufficient quantity and quality, and adequate infrastructure and budget for the implementation of public policies.

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<sup>158</sup> Self-determination occurs in the context of a constitutional framework that delimits it. It should not be understood as a right that authorizes the creation of zones exempt from legal regulation by the State, or as a territory of legal control. Self-determination also cannot be confused "with autarkic, separatist or anti-systemic positions, since they must be considered together with the principle of unity of government and territorial integrity of the State (OHCHR and UN, 2013, paragraph 52).



## 2.12.2 Principle of no contact

It should be up to PIA to decide freely and voluntarily whether or not to establish contact with the surrounding society. Under this principle, prevention, contingency and impact mitigation measures and plans shall be established in the event of undesired contact that could affect these peoples. Strategies should include health protection.

- a. Actions or measures contradicting this clear expression must be interpreted as violations of fundamental rights.
- b. The principle of no contact derives from self-determination, providing that contact should only take place through the initiatives of the peoples in isolation themselves, and that any measure of forced or controlled promotion of contact should be avoided.
- c. In extreme cases, when the need is duly proven, through evaluative and conclusive processes of the competent bodies and “social control”,<sup>159</sup> interventions can be carried out by the official body in charge of guaranteeing the physical integrity of these peoples.

## 2.12.3 Principle of precaution

Refers to making public decisions in a timely and appropriate manner, in situations where the information available is insufficient, incomplete or confusing, and in situations where they must be made despite difficulties or complexities.

The principle of precaution, as the guiding principle of environmental policy, safeguards PIA. Precaution requires taking preventive measures in the event of uncertainty or doubts about actions, policies or activities that may directly or indirectly affect the life and physical, cultural, spiritual and territorial integrity of peoples in isolation; uncertainty and doubts about the conditions of isolation require preventive measures, precautionary actions, respectful decisions and regulations protecting their rights.

- a. Actions and measures that may negatively affect, even indirectly, their territories, wellbeing and life options, should be considered as non-consensual by these peoples, as they may disrupt the fundamental conditions for their physical integrity, the maintenance of their uses, customs and traditions, as well as contradict the principle of no contact.
- b. The development and comprehensive implementation of management instruments, the guarantee of specialized and trained teams and sufficient financial resources are basic factors for prevention and precaution against risk and vulnerability contexts.
- c. It is essential to promote dialogue and awareness-raising processes among indigenous and non-indigenous populations living in the vicinity of isolated peoples, and to monitor their health and well-being.

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<sup>159</sup> Social control is the participation of society in public management through bodies created for such purpose, with the aim of monitoring and inspecting government actions and thus solving problems and ensuring the maintenance of citizen services.

- d. Taking into account that PIA do not share the limits administratively imposed by the State on indigenous lands, the buffer zones<sup>160</sup> should be implemented in their surroundings, under technical and anthropological criteria, guaranteeing the legitimate action of the official indigenous governing bodies in these areas.
- e. Likewise, PIA do not share the borders established between nation-States. It is urgent and necessary, especially in the diplomatic sphere, to establish spaces for dialogue where multilateral actions and agreements can be implemented for the protection of these peoples in cross-border regions (see principle of International Cooperation).
- f. The conditions of access, stay and circulation of technical teams in regions with evidence of PIA must be guaranteed, such that these teams have the full capacity to carry out all the work necessary to recognize the existence of PIA, including, if necessary, legal actions for compliance.
- g. Agile and provisional administrative instruments must be guaranteed for the interdiction of areas where there is the possibility of the presence of PIA, restricting the use and access of third parties, environmentally safeguarding the territory, as well as the necessary research processes for the recognition, identification and territorial definition of these peoples.<sup>161</sup>
- h. The exercise of public policy must be continuous, stable and permanent, in order to generate the minimum impact on these peoples.

### 2.12.4 *Principle of vulnerability*

The performance or development of any activity is carried out considering that the rights of PIA are exposed to multiple situations of vulnerability (social, cultural, territorial, immunological) when faced with any contact. The behaviors and procedures to be implemented against contingencies must always consider this situation of vulnerability, given the greater susceptibility to illness and death;

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<sup>160</sup> Lands surrounding those of PIACI. In order to avoid accidental contact, specific protective measures should be established to limit the possibility of such contact. These areas should have limited access, economic activities should establish mechanisms and physical barriers to avoid contact, and activities carried out within them should be controlled (OHCHR AND UN, 2013, paragraph 55-b).

<sup>161</sup> The Brazilian State, through FUNAI, based on the principle of precaution, uses a provisional legal mechanism for the protection of certain areas with a recognized presence of isolated indigenous peoples, while the process of territorial identification or demarcation is being developed. This instrument, known as a "restriction of use", provided for in Decree 1775 of 1996, establishes in Article 7, as to the administrative procedure for the demarcation of indigenous lands in general, that FUNAI: "should discipline the entry and transit of third parties in areas where the presence of isolated indigenous peoples is recognized, as well as take the necessary measures for the protection of indigenous peoples".





### 2.12.5 *Pro homine principle*

In the application of these public policies for the protection of PIA, in case of discrepancy between domestic and international standards, the enforcement authorities shall ensure that the standards that provide the highest degree of protection to peoples in isolation are applied.

In case of regulatory conflicts or collisions, the enforcement authorities shall apply the rules that provide the highest degree of protection to PIA and their rights.

### 2.12.6 *No harm principle*

Principle applicable to the health of PIACI; it entails both the guarantee of the right to life and the establishment of measures to ensure the highest possible level of health.

It is important to be clear about a series of guidelines that have a direct impact on the health of these people, which are as follows.

- a. Recover the territoriality of these peoples and guarantee their territories.
- b. Promote and treat the health of isolated and initial contact groups, taking into consideration each culture in a particularized and contextualized manner, as well as their special conditions of high vulnerability.
- c. In the case of PIA, the guarantee of the right to health must be interpreted taking into account the desire of these peoples to remain in isolation and the need for greater protection given their vulnerable situation.
- d. Consider environmental conservation as an essential factor to promote the health of such groups. Consider a preserved and balanced environment and provide a valuable and priceless health maintenance service.
- e. Carry out active and permanent programs, with interinstitutional coordination, to promote the health of the surrounding communities, in order to control epidemiological, social, environmental and economic factors that may cause physical and mental damage in isolated communities. We must work on creating “health protection cordons” to ensure the health of PIACI and the surrounding communities; thus avoiding epidemics and diseases from surrounding peoples.
- f. Define specific public health policies for isolated and initial contact groups.
- g. Consider that the maintenance of the way of life, traditional diet and environmental conservation are fundamental for the health of these groups.
- h. Each State must create specific and qualified teams to work with the health of these groups, including taking care of the health of the team of professionals, which involves prior vaccination and a minimum understanding of the anthropology of health.

- i. Promotion of systematic preventive actions. Each State must create an emergency (contingency) plan for the possibility of a contact, accidental or not, which could have a severe impact on the health of these peoples, with the threat of imminent mass mortality (in this exceptional situation, agility in decision-making and implementation is necessary). Therefore, it is necessary to create rapid mechanisms that allow for more immediate and efficient action, and to have the resources to do so.
- j. It is important that all health care is always provided by specialized personnel, both in health and indigenous issues, who can establish a culturally appropriate relationship. Only a staff with expertise in PICI health and in establishing intercultural relations with indigenous peoples can guarantee the health of their members as well as respect for the other rights to which PICI are entitled. This staff requires specific and demanding training in various issues related to interculturality, traditional medicine and the cultural practices of the peoples with whom they will be working.
- k. The right to health of PIA is guaranteed by adopting measures related to their situation of special vulnerability (i.e. diseases that could threaten their existence) and respecting international treaties that recognize traditional indigenous health systems and the use of their medicines. Even so, it is important to develop preventive health programs that serve as health protection plans. In this regard, the levels of contamination of rivers and toxic spills flowing must be controlled, as well as poaching that may take place in the territories of peoples in isolation, since food sovereignty is one of the keys to maintaining health. Likewise, care and follow-up should be given to the health of all actors living near the territories of isolated peoples, whether they are settlers, missionaries, company workers, members of the security forces or the Army, etc.

### **2.12.7 *Principle of intangibility and territorial integrity***

It is essential to guarantee the intangibility, indissolubility, irreducibility and integrity of the PIA territories, made possible, to a large extent, by territorial definition, full possession, exclusive usufruct, protection and environmental and territorial management.

Any activity that violates or may violate the rights of these groups, particularly those related to their life, health, personal and cultural integrity, self-determination and non-contact, shall be banned in the territories of PIACI. The maximum protection of the territory is aimed at avoiding any action that could alter or modify the characteristics of the land where they live. The subjects of control shall carry out their activities in strict compliance with the parameters established by the competent authority; under no circumstances may they intervene in these territories or Intangible Zones.



We emphasize what has already been pointed out in the principle of precaution, taking into account that PIA do not share the limits administratively imposed by the State on indigenous lands, and the buffer zones implemented in their surroundings, under technical and anthropological criteria, guaranteeing the legitimate action of the official indigenous governing bodies in these areas.

### **2.12.8 Principle of international cooperation**

The protection of territories occupied by PIA must be linked to multilateral cooperation between countries and inter-institutional cooperation between public and private entities, allowing for methodological and regulatory exchanges, multilateral agreements and technical cooperation.

Given that PIA do not share the borders established between nation-States, and their territory of origin crosses international borders, it is urgent and necessary, especially in the diplomatic sphere, to establish spaces for dialogue that make it possible to think about and implement multilateral actions. And agreements, according to their capacities and strengths, in line with the respective legal frameworks, always respecting the principle of no contacts in cross-border regions.

In the case of PIACI, the notion of territory is usually based on natural boundaries, such as rivers or mountains, and not on political boundaries between States or their subdivisions. For this reason, the IACHR (IACHR and OAS, 2019) has recognized that certain measures for the protection of these peoples have transnational implications. In these scenarios, there is an urgent need for coordinated cooperation between States on a binational or regional basis, as appropriate, to achieve greater and more effective respect for the rights of these groups in the hemisphere (IACHR, 2013, par. 94, 137, recommendation 22). Along the same lines, Victoria Tauli Corpuz, UN Special Rapporteur on the rights of indigenous peoples, argued that interstate coordination is necessary to address the threats faced by these indigenous peoples across borders (IACHR, 2017).

### **2.12.9 Principle of progressivity and on-regressiveness**

It is the duty of the State, and of all public and private organizations, to permanently seek the application of human rights and protection mechanisms, in light of the prevailing needs of the context or the changing situations of reality.

The principle of Progressivity of human rights implies gradual progress to achieve full compliance, i.e., that the fulfillment of certain rights requires the adoption of short, medium and long-term measures, but proceeding as expeditiously and effectively as possible.

### **2.12.10 Principle of cooperation and participation**

Cooperation, collaboration and coordination between public administrations and the different agents involved must be guaranteed.

The different administrations or bodies and departments belonging to different spheres of the same administration, involved in the protection of PIA, shall be

governed by the organizational principles of cooperation and coordination for maximum unity and efficiency in their actions. The entities involved in the implementation of PIA protection policies must be willing to collaborate among themselves and with public administrations and other agents involved to ensure the successful application of this principle.

1. The protection and promotion of the rights of PIA should be an inter-institutional responsibility, which means that, in addition to the official indigenous or indigenist agencies, spaces for permanent dialogue should be promoted among other public entities and other agents involved.
2. The State must recognize and promote the participation of indigenous peoples, their organizations and civil society in decisions and activities involving the protection and promotion of the rights of PIA, ensuring the proper exercise of social control institutions.

### 2.12.11 *Principle of accountability*<sup>162</sup>

Violations of the rights of PIA, such as attempts at forced contact, the invasion of indigenous lands, the destruction and environmental degradation of their territories, the State's failure to guarantee conditions to safeguard their rights, among others, must be effectively investigated and criminally sanctioned within a reasonable period of time.

1. In cases of aggressions by third parties against PIACI, perpetrators should be criminally prosecuted; but in the case of neighboring indigenous communities, some of them in recent contact, agencies have recommended intercultural intervention.
2. It is essential to promote and develop studies and research into the severe violations of rights suffered by PIA, especially with regard to their nature as crimes against humanity and genocide.

Following the standards established in the Inter-American Human Rights System (IAHRS).

States should establish effective protection mechanisms with the necessary material resources to prevent, in practice, access by third parties to territories where PIACI are present, including their buffer zones, and provide for appropriate sanctions for those who violate them, and if applicable, that such sanctions are culturally appropriate. In relation to the previous recommendation, it is necessary to take into account the local context, being sensitive to relations with neighboring

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<sup>162</sup> The Peruvian State, in Legislative Decree 1237 of 2015, which amends the Criminal Code, incorporates as an aggravating circumstance of the crimes regulated in the code if the victim belongs to a PIACI (Article 46, 2, n), as well as crimes of illegal trafficking of species of wild flora and fauna, predation of wild flora and fauna, and trafficking and illegal extraction of wild flora and fauna species, and the case of extraction of species from Territorial or Indigenous Reserves. It also regulates as an aggravating circumstance crimes against forests and illegal trafficking of timber products, if they are committed within Territorial or Indigenous Reserves.



indigenous peoples or communities, including those in initial contact (IACHR AND OAS, 2013, recommendations 7 and 8).

- \* Carry out the necessary measures to implement or strengthen the systems for monitoring and oversight of extractive activities, exploitation or development actions relevant to the Pan-Amazon region, Cerrado and Gran Chaco, in a manner consistent with the human rights obligations outlined in this report (IACHR AND OAS, 2019, recommendation 5).
- \* Refrain from committing aggressions and harassment against leaders or other persons involved in the processes of defense of the rights of communities, population or indigenous and tribal peoples in the Pan-Amazon region, Cerrado and Gran Chaco, and if necessary, prevent them from happening. In particular, upon learning of an actual and immediate risk, adopt reasonable measures to prevent its materialization; earnestly investigate the facts that are brought to their attention; as well as, if appropriate, punish those responsible and provide adequate reparation to the victims, regardless of whether or not the acts are committed by state agents or private parties (IACHR AND OAS, 2019, recommendation 7).

Among the guiding principles for the protection of PIA provided, the principle of no contact, as a prerogative of self-determination of PIA, is what specifically characterizes the situation of isolation of PIA and takes precedence over the field actions and the criteria to be established for the recognition of PIA.

## 2.13

### Multidisciplinary teams

The governing body in charge of promoting and protecting the rights, provided by law, of PIACI, will have management and operational bodies created with the purpose of defining and implementing public policies of the PIACI protection system. These bodies will be responsible for coordinating multidisciplinary and multicultural teams, incorporating indigenous peoples and their organizations and civil society organizations throughout the process:

1. Legal advice, through a team of lawyers with expertise in PIACI.
2. Social assistance, through a team of anthropologists, social workers and sociologists, with expertise in PIACI.
3. Health advice, through a team of doctors, nurses, public health specialists, with expertise in intercultural health of indigenous peoples, especially PIACI.
4. Operational technical field assistance, through a team of specialists in recognition and identification of evidence of PIACI, specialists in handling and preparation of maps and sketches, geo-referenced location equipment, driving motorized equipment (cars, motorcycles and boats) and who have knowledge and mastery of survival in the jungle.
5. Permanent ethnocultural assistance from indigenous experts and shamans that allow an adequate reading and understanding of PIA evidence from an appropriate cultural context.



## 2.14 Methodology, principles and criteria for recognizing the existence of PIA

The recognition of the existence of an indigenous group in isolation (PIA) will be given in a given context and specific territory. It is based on evidence information about their existence, previously catalogued in the competent body, to be confirmed or refuted by means of exhaustive field expeditions for such purpose.

### 2.14.1 *Methodology for recognizing the existence of PIA*

The recognition of the existence of a given indigenous group in isolation, or any part of it, is the first procedural step to proceed to its registration, with subsequent actions for cultural identification and, consequently, for the territorial definition and promotion of other rights provided by law.

The methodologies for recognizing the existence of PIA, implemented by indigenous communities, non-governmental organizations and States, constitute contextual mechanisms and procedures, referenced in their cultural and cosmological, legal, political, anthropological, archaeological, linguistic and epistemological apparatuses.

We emphasize that there is no single methodology for recognizing the existence of PIA, as specific and contextual adaptations are necessary for each context (political, geographic, economic, legal and cultural) of a given people in isolation. What do exist are universal and determined principles for these peoples, which must be observed when defining methodologies and public policies and their respective actions. The principle of no contact, as a prerogative of the self-determination of these peoples, is the principle of all other principles.

The methodologies for recognizing the existence of PIA are a set of criteria and procedures adopted to carry out research in order to systematize the evidence of the existence of a given indigenous people in isolation, in a given context and territory.

The implementation of methodological practices for the recognition of PIA, based on the principle of no contact, led their agents to define procedures that would not stimulate (or induce) contact, would not cause disturbances with their presence and would avoid sightings or unwanted encounters. These procedures have been referred to as “direct actions” or “indirect actions”. The Office of the United Nations High Commissioner for Human Rights, in document Guidelines for the Protection of Indigenous Peoples in Isolation and Initial Contact in the Amazon Region, Gran Chaco and the Eastern Region of Paraguay, defines “indirect action” as follows:

Indirect action means various types of actions, among which we can mention: aerial photographs of their campsites, visits to abandoned campsites, evidence of steps, abandoned contraptions, accounts of

contacts told by nearby peoples or testimonies of indigenous people who for one reason or another ceased to be in isolation or the historical series of geo-referenced information (OHCHR, 2012, footnote 9, par. 10).

## **Direct and indirect methodologies**

Based on the assumption that “indirect actions” correspond to “indirect methodologies” and “direct actions” to “direct methodologies”, when analyzing the practices introduced and developed by indigenous organizations, indigenist organizations and States (see section “Methodologies for recognizing the existence of PIA by States, indigenous organizations and civil society organizations in South America”, of this report), we have shown that all of them adopt no-contact as a guiding principle. They also use the same techniques, criteria and procedures to recognize the existence of PIA in their countries. The only difference between the direct and indirect methodology is that the direct methodology, in addition to verifying, in the field, the evidence reported by the primary and secondary sources, also plans and executes expeditions in the forest, when it is certain that PIA are not using these areas, in order to collect new evidence to support the recognition of these peoples. This evidence, in addition to subsidizing recognition, contributes to identifying the territorial occupation of these peoples, as well as demonstrating the possible threats to which they are subjected. This search for new evidence is what differentiates direct methodology from indirect methodology.

The analysis of the methodologies used in South American countries led us to identify two methodological blocks for recognizing the existence of PIA, i.e., methodologies used by States and civil society organizations, and those used by indigenous peoples and organizations.

The methodology for recognizing the existence of PIA will be guided by principles, in accordance with the legal frameworks of each country.

### **2.14.2 Criteria for recognizing the existence of PIA<sup>163</sup>**

The development of actions to recognize the existence of PIA should be designed and implemented with the participation of indigenous organizations<sup>164</sup> and civil society organizations working on PIACI.

The methodological process of recognition is based on the identification of signs of the presence of indigenous groups in isolation through testimonies received from other contacted indigenous groups that share/colonize the territory, or non-indigenous settlers in the region.

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<sup>163</sup> Based on local reports and Vaz (2011).

<sup>164</sup> The indigenous people are experts in identifying and interpreting information about the presence of PIA in the forest, attending to the high risk situation of contact, etc. The objective of this report is to consider the knowledge of the regional population, resulting from experience and coexistence with the forests and their people, in order to substantiate the principles of this methodology, as they bring the wisdom of forest science and indigenous peoples (Cangussu *et al.*, 2022).



These signs consist of evidence found in the forest, which are the result of the interaction of these peoples with their habitats. The dependence of these peoples on the biome in which they live translates into their own ways of extracting from the environment everything they need to survive. In this relationship, marks are produced in the forests and plants that, even with the passage of time, are perceptible to the eyes of the forest peoples. These marks reveal the technologies and tools used, ways of life and food habits, occupation and territorial management and aspects of intangible culture.

A group of Brazilian researchers, made up of indigenists, anthropologists, archaeologists and linguists, carried out studies with the aim of analyzing the practices of collecting information and material remains in the territories occupied by PIA. These practices were identified as a form of archaeology based on the principle of not interfering with the objects found in the forest and the traces they leave behind.

This group argues as follows:

In this context, the analysis of the material culture of isolated peoples, consisting of artifacts, ecofacts<sup>165</sup> and marks of their interaction in and with the forests, can be seen, according to our proposal, as an archaeological practice. Thus, we seek to improve the methods and techniques used in indigenist and archaeological work, in a complementary and transversal manner, with the objective of broadening the understanding of these peoples, in order to configure a no-contact archaeology. This approach also aims to contribute to the protection of threatened territories in the Amazon, many of which are inhabited by isolated populations, and has the potential to add a new stratigraphic layer to the long-term history of indigenous peoples (Cangussu *et al.*, 2022).<sup>166</sup>

In the paper “An archaeology of no contact: isolated indigenous peoples and the archaeological materiality of forests and plants in the Amazon”, researchers highlight the diverse contexts and material culture of isolated indigenous peoples in the Amazon.

The material culture of the isolated indigenous peoples of the Amazon [Cerrado and Gran Chaco] is as diverse as their historical and cultural contexts, as it expresses their different strategies

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<sup>165</sup> “Artifacts” are all those objects or products resulting from human use or ingenuity, such as tools, weapons, works of art, etcetera. While “ecofacts” are, generically, those natural elements, also modified by man, which provide us with data on human intervention in the environment as a reflection of the living conditions of a given society. For example, an anthropized forest is an ecofact, as well as marks caused by indigenous people collecting honey from a tree, or any trace in the environment resulting from the actions of human beings. This concept was developed from conversations with Daniel Alves Cangussu.

<sup>166</sup> For more information see Cangussu *et al.* (2022).

of resistance, mobility, settlement, food and management. Ceramic vessels, hearths, lithic artifacts, among other elements widely present in archaeological sites and materializing the long-term history of Amazonian peoples (Apud *et al.*, 2022; Kater and Llopes, 2021), are among the traces of perishable technologies (Cangussu *et al.*, 2022; Rodrigues *et al.*, 2021), such as wooden mortars, heads, “en-viras” [bark of certain trees used to make rope, cord, and for other purposes], trails, and diverse food remains, as well as artifacts that point to the complexity of relationships with non-indigenous peoples. These may have been obtained prior to isolation or subtracted from invaders and are continually reworked according to traditional techniques (Cangussu *et al.*, 2022, p. 140).

The authors point out that the coexistence of PIA with the forest leaves marks and defines territories.

Territoriality marked by isolation is guided by seasonal mobility (in most cases) which intensifies or reduces depending on the time of year, thus human presence is widely dispersed and can integrate territories ancestrally inhabited for centuries (Apud *et al.*, 2022; Cangussu *et al.*, 2022; Huber, 2012; Rocha *et al.*, 2014). Such peoples, therefore, are embedded in anthropic landscapes, built cumulatively and gradually (Cangussu *et al.*, 2022; Lins *et al.*, 2015), while contributing to the continuity of the creation of cultural niches (Balée, 2008; Cangussu *et al.*, 2022; Politis, 2016; Smith, 2011), constructing and updating ancestral landscapes. An important part of these marks is imprinted in the vegetation transformed by the passage of time, which leads us to follow the trail of an archaeology of forests and plants developed from the archaeobotanical remains of these peoples: paths and shortcuts, temporary campsites, logging, honey stripping, scars on tree trunks, among others, are witnesses of this millenary culture (Cangussu *et al.*, 2022, p. 140).

The seven local reports, prepared by GTI PIACI member organizations, highlight the technologies used by PIA to produce their material culture, namely: dwellings (fixed or temporary), weapons, utensils for food processing, traps for hunting and defense, and the use of plants, roots, vines and tree bark for various purposes. The management and processing of the plant world, where each plant serves as a medium for human action, leaves physical marks of these interactions. These marks, observable over time, can be dated by analyzing the plant’s regeneration process, as detailed in Cangussu (*et al.*, 2022):



The archaeological remains observed in the context of monitoring isolated indigenous peoples are largely the result of multi-species interactions (Cangussu et al., 2022; Tsing et al., 2019), in which plants play a central role: ravines and clearings in the forest, areas for the management and processing of plant species or extraction of various resources, fishing and hunting areas, campsites and temporary dwellings. These elements are directly related to indigenous biomes and territories, and can be detected in the cutting of trees for honey extraction; in the extraction of sapwood from trees for the manufacture of various utensils; in the breaking of branches for the demarcation of trails and paths; in the construction of shelter structures with plant material; in the making of baskets from plant fibers; in logging patterns or protection of selected species, among others. A broken branch in the present can become a twisted trunk in the future, just as an open clearing can favor the growth of heliophilous species (favored by luminosity) and give rise to the appearance of an orchard, among other aspects [...].

Despite the regenerative efficiency of plant tissues, during the post-injury recovery process, trees retain marks on their woody structure, and it is precisely these marks of use preserved throughout the plants' years of life that provide recognition of the Varadouros. The small seedling will reach maturity, but the location, direction and height of the creek will continue to bear witness to the territorial mobility and itinerancy of indigenous peoples through the forest. Old clearings that are still active have plants and trees in various stages of growth and healing from damage in their firebreaks. Clearings abandoned for years can still be seen by the thick, deformed trunks, which, nevertheless, retain the sense that those who created them followed (Cangussu et al, 2022, p. 147).

The methodology for recognizing the existence of a given PIA is based fundamentally on primary and secondary information on sightings, findings, material traces in the forest, etc. This evidence must be tested through procedures and criteria, before and after the field recognition activities, as described below.

### **2.14.2.a Preliminary survey of evidence**

- a. Systematize pre-existing information that accounts for the existence of a particular PIA, or any part thereof.
  1. Reported information typically indicates: sightings, abductions of people, traces left on the ground, accounts from individuals who have had encounters with PIA, testimonies, shamanic (feathers or sticks, etc.), clan or other signs found in the forest/mountain, recently occupied sites such as campsites, discarded utensils, cultivation areas (with or without crops), food waste, materials for toolmaking, objects for collecting, transporting, and storing water or honey, abandoned objects, whistles and bird-mimicking whistles, disappearance of objects in the region, ash and burnt wood remains

from campfires, temporary campsites (sometimes for overnight stays) or remnants of campsites (abandoned), markings on plants indicating paths, holes made in trees for honey collection, food scraps, etc.

- b.** Bibliographic survey, with the purpose of complementing the information systematized in the database. This survey should seek information about the history and ethnohistory, the cultural, linguistic and material complex of the region, maps, satellite images and other forms of capturing the surface, surveying non-indigenous occupations, economic fronts (extractivism, public and private ventures), among others. Such a survey leads us to regional or indigenous informants.
  - 1.** It is important to gather information on the history of the relationship between indigenous and non-indigenous peoples in the region.
  - 2.** All this information should be recorded in a database and periodically fed back as new data becomes available.
  - 3.** The information contained in the database shall contain, at least:
    - i.** Occurrence.
    - ii.** Dates of occurrence of the sign (preferably in chronological order).
    - iii.** Sign location.
    - iv.** Date of receipt of information.
    - v.** What the sign consists of.
    - vi.** Testimonies.
    - vii.** Informants (primary or secondary).
    - viii.** Detail of events.
    - ix.** Data analysis and evaluation.
    - x.** Geo-referenced location of each sign and event site.
    - xi.** Analysis of potential risks.
    - xii.** Photos or videos (if possible).
    - xiii.** Other relevant data.
- c.** All information related to the presence of PIA is considered data to be verified. Much of the information comes from less than credible sources. The validity of the information is prioritized over the number of cases reported.
- d.** All information, once included in the database, must be retained. Only its “confirmed” or “refuted” status should be altered through the field verification process.
- e.** Field actions must be planned in advance.

### **2.14.2.b The science of evidence**

Evidence of human and non-human presence in the forest is characterized by intervention in the soil, in plants, and by the artifacts and ecofacts that remain in the landscape. Like humans, animals also leave their records. In the case of PIA, these records can be observed and detailed by attentive researchers who are familiar with the architecture and pattern of forests. In this case, indigenous peoples, in general (and some regional ones), have knowledge and intimacy with these



landscapes, so when they encounter these changes, they identify them immediately. Hunters (indigenous people who have a detailed knowledge of fauna and flora), for example, are experts in locating the tracks left by animals. Thus, they recognize hunting trails with such skill that they quickly perceive the passage of a particular animal, being able to identify it, define the direction of its journey, and calculate the time elapsed since the track was discovered. The passage of tapirs, ants, wild boars, agoutis, etc., ultimately leaves a record perceptible to eyes accustomed to identifying them, given the behavioral specificities of each animal. In other words, the track is associated with the diet and the regions where said diet occurs, which contributes to knowing whether or not the animals move when searching for food when in harvest. This association of knowledge (science of forest peoples), combined with knowledge produced by academic science, allows for the identification of the presence of PIA in a given region; although these peoples are skilled at camouflage because most of them are constantly fleeing.

In addition to the material remains, the indigenous people also identify the immateriality of the presence of PIA through sounds, winds, spirits and shamanic rituals conceived from diverse cultural practices, established with their territories, with the forces of nature, entities and spiritual sources. This dimension is possible because they share the same historical and social context and are an integral and indissoluble part of their worldviews. This immaterial aspect, misunderstood by science and, therefore, difficult to fit and be accepted in a Western academic methodological systematization, represents an enormous challenge for States; however, it constitutes an axis that must run through all actions aimed at recognizing their living and non-static presence in global societies. Such spirituality should permeate the methodologies of recognition of the existence of PIA, emphasizing the cultural and spiritual presence as a continent of their physical presence, as opposed to reductionist methodologies that are limited to demarcating sites and numbers of people, as if the location determined a restricted and static area and the number of people the importance of the group in assessing the impacts of the advancement of modern society (ILPy, 2024, p. 7).

Throughout this report we cite the paper entitled “An archaeology of no contact: isolated indigenous peoples and the archaeological materiality of forests and plants in the Amazon” (Cangussu *et al.*, 2022). This study is of fundamental importance for all those who intend to think, conceive or even carry out activities in the quest to recognize, identify, monitor and participate in the definition and territorial management of isolated indigenous peoples in a given region. We suggest reading it.

### 2.14.2.c Verification of evidence

During evidence recognition activities of a specific isolated indigenous people or group, or any part of it, the team carrying out the work must have the minimum qualifications of coexistence with indigenous peoples, jungle coexistence and survival, and a calm temperament in emergencies. Below, we suggest some information and procedures.

1. The preliminary survey of evidence, discussed in the previous item, leads us to regional or indigenous informants. It is necessary to seek these primary sources to confirm or refute such information.
2. The action of recognizing or verifying the existence of PIA must not violate the principle of no contact, strictly avoiding penetration into their territory, when it is in use by them, to recognize their existence or location.
3. Evidence reported by primary and secondary sources should be verified through field interviews and confirmation, or through expeditions, provided that the principle of no contact is observed.<sup>167</sup>
4. Faced with the recent discovery of evidence, the main objective is to prevent this from turning into a sighting or contact, whether peaceful or violent. The main strategy is to retreat from the site as calmly and orderly as possible.
5. To prevent the recognition of the presence of PIA from becoming a commodity (commercial exchange object), the information is never accessed through monetary rewards to the informant.
6. All information regarding the location of PIA should be considered confidential until protective measures are in place. The team must have the necessary skill, ability and sensitivity to build good relationships with local settlers and the people who stay in the area for varying periods of time for different types of work.
7. Planning the interview (recording, filming, note taking, use of drones, etc.).
  - a. It is advisable to have on hand a guide of semi-structured questions, both open and closed, in order to explore to the fullest the information coming from the interviewee.
  - b. Do not ask leading questions (e.g., were the indigenous people you saw naked? Were they big? Did they use bows and arrows? The ideal would be to ask: What were the indigenous people you saw like? What is it about them that caught your attention the most? Did they take anything?).
  - c. If possible, arrangements should be made to go to the track site with the interviewee/informant.
  - d. In the event that the trace is in a recently occupied region and it is found that the indigenous people in isolation (PIA) are no longer there, careful planning is necessary.
  - e. Interfere as little as possible with the site and the trace.
  - f. Do not leave anything on the site, such as garbage, for example.
  - g. Exercise caution with objects that may transmit diseases.
  - h. Take as many records as possible (photo, video, notes, use of drones,

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<sup>167</sup> Evidence and testimonies, when possible, should be corroborated in the field, observing tracks left on the ground or effects of the encounter. The principle of “not initiating any kind of contact attempt” and respecting the physical spaces temporarily occupied by isolated indigenous groups implies that these groups should not be approached until they have withdrawn.

etc.), as it is likely that you will not be able to return to the location, or if you do return, it may have been altered by other visitors.

8. Indigenous campsites (abandoned).
  - a. The site of human occupation tracks is an archaeological site. This space should not be interfered with, because there is information that will help understand the isolated group, therefore:
    - > Do not change the position of objects. Observing your layout will provide important information:
    - > Observe:
      - > The use and location of fire.
      - > Places to spend the night.
      - > Food waste and waste materials used to manufacture objects.
      - > Do not remove material from the archaeological site, only film or photograph.
      - > Be sure to record, including location:
      - > Material culture.
      - > Campsite architecture.
      - > Food culture.
      - > Road (trail/path) network and addresses.
      - > Location of campsite: indicate a reference, preferably with GPS.
  - b. It is important to conduct observations, within a radius of at least one kilometer, in order to obtain information about the collection of material for building campsites, fruit and honey gathering, food waste, paths (trails), bathing and water collection sites, garden paths (if they are farmers), water catchment, and clearing paths (if they are farmers).
  - c. Obtain information about wood cutting technology (do they use iron tools, is the wood cut surrounded by it or do they cut it like non-indigenous people, is the tool blunt, etc.), camp construction, food making, honey gathering, tool making (arrows, bows, nets, pots, etc.), fletching, and the embedding or inlaying of arrowheads and feathers.
9. Evidence and interviews should be recorded through photos and videos, when possible, as well as the (geo-referenced) location of this evidence.
10. In the case of sightings or exchanges of words, the evidentiary elements are usually the testimonies of people who have found themselves in this situation. If it is possible to verify *in situ*, the tracks left on the ground or the effects of the encounter should be observed.
11. The determination of which evidence is relevant should be made based on the knowledge of their cultural patterns related to:
  - > The use of territory (routes and semi-permanent stays according to the seasons and forest types, linked to hunting activities, honey gathering, cultivation preparation, wild fruit gathering, salt seeking) or aspects of a spiritual nature that guide occupations or paths.



- > The search for consumer goods (food, water, items to build utensils, objects to store, transport and preserve water or food, etc.).
  - > The existence of recent occupation sites, expressed in huts, recently discarded tools, cultivation areas (with or without crops).
  - > Shamanic, clan or other signs that were left to warn others of their presence.
12. Periodic reviews of satellite images to measure the impacts of anthropogenic action on the territory in use by isolated groups.
  13. The documentation of the recognition visit. Each trip is accompanied by a written report containing all the details of the work, a day-by-day account of activities, a more complex analysis of the field situation and a better interpretation of it.
  14. Routes traveled, signs of presence, cleared areas, opening of new paths or trails, sites of importance to the life of isolated groups, territory data and land use are also recorded.
  15. It is documented with photographic records, audio recordings and filming, including the use of drones for aerial recording. Maps drawn or provided by informants during field trips are attached to the reports.
  16. Preparation of talking maps that are corroborated in the field and cross-checked with satellite monitoring and drone imagery.
  17. Whenever possible, data on rainfall in the area, and other information from the local population that may be important for analyzing the condition of a particular area, is recorded.
  18. Anticipate situations that put at risk the validity of the way of life of isolated groups and their territory.
    - > In field expeditions, whenever possible, it is important to use geotechnologies to facilitate data collection and mapping of indigenous peoples' movements between villages, hunting and gathering sites, material culture, and thus understand their seasonal dynamics and territorial occupation.

#### **2.14.2.d Specific situations involving evidence of PIA<sup>168</sup>**

Before some specific situations, involving evidence, sightings and unexpected encounters with PIA, we suggest the following procedures and behaviors that ensure the protection of life and health, both of these peoples and of the external agents

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<sup>168</sup> Based on Ministerial Resolution 240-2015 of the Ministry of Culture of Peru (which approved the "Protocol of action upon discovery, sighting or contact with Indigenous Peoples in Isolation and for relations with Indigenous Peoples in Initial Contact" and on document "Nuestra respuesta ante un posible contacto con los hermanos en Estado Natural: un plan de emergencia-contingencia pensado desde el territorio" (Curare Los Ingleses Indigenous Reserve, Manacaro Community, Colombian Ministry of the Interior (Directorate of Indigenous Affairs, Roma and Minorities), Colombian National Natural Parks and Amazon Conservation Team Colombia, 2020).





involved in the contingencies that may occur, and that can be found in document “Nuestra respuesta ante un posible contacto con los hermanos en Estado Natural: un plan de emergencia-contingencia pensado desde el territorio” (Curare Los Ingleses Indigenous Reserve, Manacaro Community, Colombian Ministry of the Interior (Directorate of Indigenous Affairs, Roma and Minorities), Colombian National Natural Parks and Amazon Conservation Team Colombia, 2020).

The document proposes that, in the face of different scenarios of sightings, contacts or evidence of PIA, in any case, those involved should endeavor to keep contact as short as possible. It is recommended

to act with caution, self-care and respect for others, ensuring the well-being of people in isolation and the safety of all members of the community. It is imperative that individuals who interact with peoples living in a natural state are in good health and possess a thorough understanding of potential cultural differences. The community must act according to the indications of the community’s indigenous authority; but, if its members are far away, it is necessary to adhere to the suggestions of this document (p. 20).

To address a sighting or contact situation, we must implement the four-step protocol known as ANDI:

### ***Move away***

Move away from the site as soon as possible without generating noise and causing the least impact. PIA, in their right to self-determination, have decided to remain in isolation, so it is important to continue to respect this decision.

### ***Do not contact***

No physical contact. Do not touch individuals or any items found to prevent the transmission of diseases. Remember that any type of contact can be “detrimental to the health and well-being of PIA, keep your distance in case of contact”.

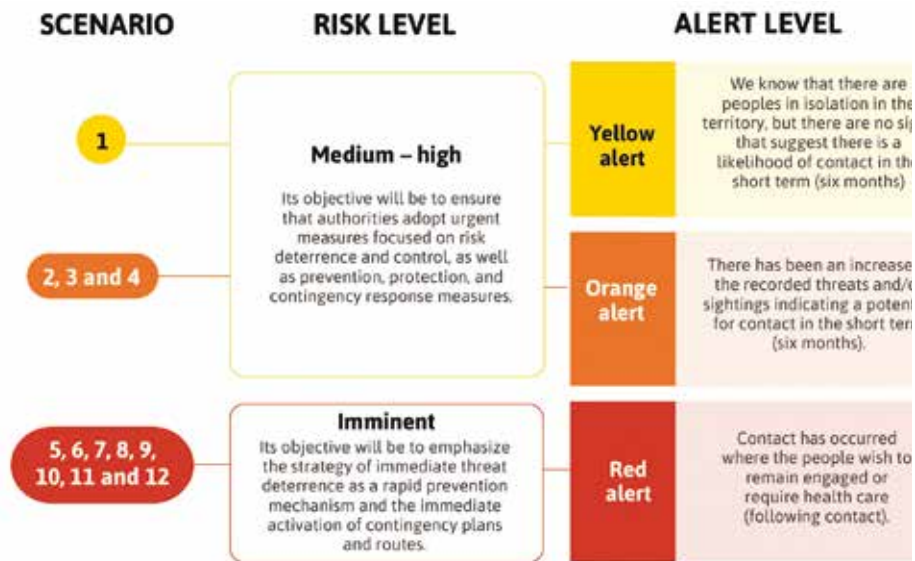
### ***Document***

Document the finding upon return to a safe location. The observations made in case of contact will be key to continue protecting PIA, please be attentive to even the smallest detail.

### ***Inform***

Report the incident to those responsible for taking action in the event of contact with PIA, following the established course of action.

For each scenario, it is possible to identify the level of risk and the necessary early warnings. We describe the alerts according to risk levels:



**Source:** Curare Los Ingleses Indigenous Reserve, Manacaro Community, Colombian Ministry of the Interior (Directorate of Indigenous, Roma and Minority Affairs), Colombian National Natural Parks and Amazon Conservation Team (2020).

Considering these levels of risk and alert, based on various scenarios that may arise in the event of a sighting, discovery of evidence, or contact with PIA, we can prepare ourselves individually and collectively to ensure physical integrity and mitigate potential inconveniences for all those involved.

The following cases (scenarios) are contained in documents Ministerial Resolution 240–2015, Ministry of Culture–Peru and in “Nuestra respuesta ante un posible contacto con los hermanos en Estado Natural: un plan de emergencia-contingencia pensado desde el territorio”. In the case of the tables with suggestions for the application of the four-step protocol known as ANDI, the tables provided cite the National Natural Park, since this is the governing body for PIA-related issues in Colombia.

In case of finding evidence of the presence of PIA:

- \* The main objective is to prevent this from turning into a sighting or contact, whether peaceful or violent.
- \* The main strategy is to retreat from the site as calmly and orderly as possible.
- \* In the event that a person outside the recognition team, authorized by the governing body, finds evidence of PIA, the following procedure shall be implemented:
  - > Stop walking and make a quick visual search in all directions, paying attention to any movement or sound in the forest.
  - > Warn others present of the finding, preferably with gestures or



## Yellow Alert (medium-high risk)

### Scenario 1

PIA items are found, such as campsites or abandoned objects (pots, baskets, etc.), footprints, crossed branches, tree markings (Hechas), traps, etc.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | Move away from the site as quickly as possible and do not return for a reasonable amount of time. Analyze the environment, stay calm.                                                                                                                                                                                                                                                                                                 |
| <b>N</b> | No contact means not touching the items found so as not to infect them with diseases. Avoid taking or leaving trash or other items.                                                                                                                                                                                                                                                                                                   |
| <b>D</b> | Document the finding. Take photos without flash, only if possible at the time and if no risks are involved. Upon returning to a safe place, try to recall what you observed, especially where the sighting occurred, when it happened, and what was observed. Do not share the information with the rest of the community; only inform the indigenous authorities of the exact location and detailed information about what happened. |
| <b>I</b> | Inform the community's indigenous authority, who should contact the following: the traditional authority, the spokesperson, and the local National Natural Parks official.                                                                                                                                                                                                                                                            |

in a low voice. Immediately cease all ongoing activities at the time of the finding.

- > Maintain distance from the finding. Do not handle or take the object or material found.
- > If the finding involves the existence of human remains or a corpse, extreme caution and prevention should be exercised to avoid any contact (moving or covering it).
- > Retreat from the area in the direction from which you arrived, calmly and silently, without delay, paying close attention to movements or sounds in the forest.
- > Do not remain in, return to, or scour the contingency area for PIA or further findings.
- > Communicate immediately with the authority closest to the governing body at the site of the contingency, and request the applicable measures.

In the event that a person from the recognition team finds evidence of PIA, the following procedure should be implemented:

- \* If the finding does not consist of danger signs (arrows, spears, or broken bows, grouped at the river's edge, placed across a path or trail obstructing transit, pinned to a tree or through an animal, or camouflaged) or signs of recent PIA presence in the area (hearth with smoldering ash, recent footprints, shelters with fresh leaves, etc.), a detailed record of the finding will be made, according to the guidance of the governing body.
- \* In the event that the finding involves the existence of human remains or a corpse, extreme caution and prevention should be exercised to any avoid contact (do not move or cover it). Likewise, the area near the finding should be marked or photographically recorded to serve as a reference for further investigation. Immediately thereafter, the Early Warning procedure established by the governing body will be activated.

In case of PIA sightings:

- \* In the event of a PIA sighting, the main objective is to prevent it from escalating into contact, whether peaceful or violent.
- \* The main strategy in the event of a sighting is to retreat the site as calmly and orderly as possible.

In case a sighting occurs, the following procedure should be followed:

1. Do not promote contact with PIA, do not approach, call, follow or lure them.
2. Avoid gestures that could be interpreted as a sign of fear, desperation or aggression, such as shouting or confrontational attitudes.
3. Immediately cease all ongoing activities at the time of the sighting.
4. It is strictly forbidden to remain in, return to or scour the contingency area for PIA or to make further sightings or findings.
5. If the sighting involves PIA members exhibiting signs of illness, such as vomiting, distended abdomen, skin lesions or rashes, pallor or yellowing,

## Orange Alert (imminent risk)

### Scenario 2

The indigenous people in isolation were sighted or heard on a beach, in a forest, river, creek or stream, or in a location far from settlements.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                             |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | Move away as quickly as possible. Avoid being noticed and heard, do not make threatening gestures or signs. Do not follow them or approach them.                                                                                                                                                                                            |
| <b>N</b> | No contact means not returning to the sighting location, even if isolated indigenous people are calling. Avoid leaving objects as gifts, as they can transmit diseases. Take photos without flash, only if possible at the time and if no risks are involved                                                                                |
| <b>D</b> | Document the encounter upon returning to a safe location. Try to remember where the sighting was, when it happened, what was observed, and why you think it happened. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened. |
| <b>I</b> | Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.                                                                                                                                                                                           |



discolored hair, or clear difficulty in walking, the nearest healthcare facility personnel must be immediately contacted, who will act in accordance with established protocols.

6. If the sighting occurred due to an attempt by PIA to establish dialogue or physical contact, the nearest authority to the contingency must be immediately contacted, who shall then inform the governing body by any available means of communication.

In the event of a sighting of PIA on a riverbank from a vessel, the following protocol should be followed:

1. In no case shall the vessel stop, nor shall it approach the riverbank where the PIA are located. Likewise, do not make signs, gestures or throw objects at them.
2. If PIA are sighted while crossing a smaller stream, it is advisable to turn around and return to the starting point, since there is a high risk of encountering more PIA upstream.
3. If PIA are sighted on the bank of a major river, navigation may continue provided that a safe location (campsite or community) can be reached and safety conditions are assessed.
4. Try to navigate as close as possible to the opposite bank from where the PIA are located.

In the event of a PIA sighting in the vicinity of a community or campsite, the following protocol should be implemented:

1. Alert the community members or personnel present without making too much noise.
2. If the team includes experts, shamans, or traditional people, they should be the primary intermediaries and facilitators of actions and procedures.
3. Retreat quietly and calmly to seek refuge in a safe place, trying to stay together within the campsite, community center, school, medical post or other similar place.
4. Children should always be kept under adult supervision, even in the days following a sighting near a community.
5. Under no circumstances should the PIA be sought out or lured.
6. Immediately notify the nearest authority to the contingency site, who must then inform the governing body by any available means of communication.

In the event of a sighting deep within the forest, far from any community or campsite, the following procedure should be followed:

1. Warn others present of the encounter, preferably with gestures or in a low voice. It is preferable for everyone to stay together.
2. If the team includes experts, shamans, or traditional people, they should be the primary intermediaries and facilitators of actions and procedures.
3. It is likely that the PIA will go deep into the forest. In such a case, retreat silently and calmly along the path used to access the area, until reaching

## Orange Alert (imminent risk)

### Scenario 3

Indigenous people in their natural state are seen near a settlement or chagra.

What can you do?

Apply the ANDI:



**A**

Move away as quickly as possible, leaving no trace and in silence if possible. Discreetly pick up any tools that are nearby (machetes, axes, clothes, pots, drums, etc.), and leave any that are far away. Avoid being noticed and heard, do not make threatening gestures or signs.

**N**

Do not contact, follow, or approach them, even if the isolated indigenous people are calling. Do not leave objects as gifts, or allow them to take products from the chagra or other objects. Avoid confrontations and retreat. Try not to take photos, if you are going to do so, do not use flash and do so without getting close to them. Do not return to the location until you are sure that the members of the isolated group are no longer there.

**D**

Document the encounter upon returning to a safe location. Try to remember the location of the sighting, the time of occurrence, the number of individuals observed, their physical characteristics, their demeanor, the sequence of events, and the presumed cause. Do not share the information with the rest of the community; only inform the community's indigenous authority of the exact location and detailed information about what happened.

**I**

Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.



a secure location (campsite, community, etc.), while paying close attention to movements or sounds in the forest.

4. If PIA exhibit signs of rejection or danger, such as launching arrows or any other objects, shouting, striking trees, making gestures with raised arms, clenched fists, or initiating pursuit towards the person who sighted them, immediate retreat to a secure location (campsite, community, or other similar place) is mandatory.
5. Immediately notify the nearest authority to the contingency site, who must then inform the governing body by any available means of communication.

#### ***Procedure in case of contact with PIA:***

In the event of a contact situation, the main objectives are:

- ✳ To ensure it does not result in any negative consequences, such as illness for PIA.
- ✳ To ensure it takes place without any type of violence.
- ✳ To ensure it occurs in the shortest possible time.

The actions described below are exclusively for cases where PIA seek contact.

1. During any contact, the particularly vulnerable health situation of PIA must always be considered, given their heightened level of exposure to diseases foreign to their environment and the absence of immunological memory, and therefore, their reduced capacity for immunological response to infectious diseases.
2. All tasks being carried out at the time of contact must be put on hold to give full attention to this matter.
3. If the team includes experts, shamans, or traditional people, they should be the primary intermediaries and facilitators of actions and procedures.
4. Maintain a passive attitude, with slow and silent movements. Do not make gestures or have attitudes of fear, annoyance or anger.
5. Do not use light signals, such as those caused by the use of flash.
6. Avoid displaying or using any type of weapon.

Do not provide them with medicines, used clothes or foreign foods. The supply of medicines, if necessary, will be made by health sector personnel.

7. Keep individuals exhibiting symptoms of infectious-contagious diseases and those who are physically vulnerable, particularly children not related to PIA, away from the contact situation and at a safe distance.
8. Limit contact time to what is strictly necessary.
9. PIA should not interact with more people than necessary, and except in cases of medical emergencies, a minimum distance of 5 meters must be maintained from them.
10. Immediately notify the nearest authority to the contingency site, who must then inform the governing body by any available means of communication.





## Orange Alert (imminent risk)

### Scenario 4

Indigenous people in isolation enter a community or settlement and take tools, food, clothing, or other items, and then leave.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | Move away, but not without first gathering any items of interest at hand (machetes, axes, clothing, pots, drums, etc.) and leave the community calmly. Protect the community at a single point previously defined by the community.                                                                                                                                                                                                                                                                                       |
| <b>N</b> | Do not contact them or react to their presence or to the loss of tools, things or pets. Do not offer gifts, but let them take products. Avoid engaging in actions or gestures that are either aggressive or friendly. Do not take photos. Do not return to the community or sighting location until instructed to do so by those in charge.                                                                                                                                                                               |
| <b>D</b> | Document the encounter upon returning to a safe location, at that time, answering the questions they asked in as much detail as possible. Try to remember the location of the sighting, the time of occurrence, the number of individuals observed, their physical characteristics, their demeanor, the sequence of events, and the presumed cause. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened. |
| <b>I</b> | Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.                                                                                                                                                                                                                                                                                                                                                                         |

Should contact occur within the forest, far from any campsite or community, there could be a violent reaction from PIA as they feel their territory is being invaded.

In these cases the following protocol should be implemented:

1. The objective is to terminate contact and retreat as soon as possible.
2. It is preferable for external agents to remain together at all times.
3. If the team includes experts, shamans, or traditional people, they should be the primary intermediaries and facilitators of actions and procedures.
4. A passive demeanor must be maintained, always preventing the situation from escalating into violence.
5. If someone speaks the language of PIA they should communicate (one person at a time) their intentions: "We are good people", "We mean you no harm", "We will retreat". The purpose of the communication should be to terminate contact. If no one can communicate in the language of PIA, these messages must be conveyed through signs or gestures.
6. Communicate to other nearby external agents that they should retreat, preferably with gestures or in a low voice, without panicking.
7. Start to retreat calmly and quietly.
8. If at any time PIA exhibit signs of aggression or rejection, such as launching arrows or any other objects, shouting, striking trees, making gestures with raised arms, clenched fists, immediate retreat to a secure location (campsite, community, or other similar place) is mandatory.
9. Immediately notify the nearest authority to the contingency site, who must then inform the governing body by any available means of communication.

Solely for instances where an extreme contact situation with PIA has developed within a community or campsite inhabited by individuals external to their people, likely in response to specific requirements such as food, tools, or healthcare.

The procedures developed below are of an exceptional nature and respond to specific situations arising in certain geographical areas previously evaluated by the enforcement authority. These procedures should not be considered as usual when faced with the encounter or presence of PIA in communities or campsites:

1. Warn the entire population about the event, ensuring they stay together or in large groups, preferably sheltered in safe places (medical post, community hall, home, among others). Children should always be kept under adult supervision, even in the days following contact near a community.
2. Immediately notify the nearest authority to the contingency site, who must then inform the governing body by any available means of communication.
3. The main speaker should be a person who understands the language spoken by PIA and is familiar with their culture. Please remain calm and pay attention to the reactions of PIA. Communication should be given one person at a time, informing PIA of their intentions: "We are good people. We mean you no harm. Key information should also be consulted to manage the situation: "What do they want? What do they need? Are they sick? How many are there? Where do they come from?"
4. If the team includes experts, shamans, or traditional people, they should be the primary intermediaries and facilitators of actions and procedures.



## Red Alert (imminent risk)

### Scenario 5

Indigenous people in their natural state enter the community aggressively and attack people, resulting in injuries to someone in the community.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | Move away from the place immediately. Retreat from the site for a reasonable amount of time and shelter the community at a single point previously defined by the community. If someone in the community is injured, seek assistance from the traditional healer or someone capable of providing aid.                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>N</b> | Do not contact them or react to their presence or to the loss of tools, things or pets. Do not respond to aggression; only in cases of extreme necessity, utilize deterrent measures such as fireworks, blowing bamboo trumpets, or whistling. Under no circumstances should you engage in retaliatory actions; violence only begets more violence. If a "Hecha" or any other item belonging to PIA is found within the community or on a boat, the traditional leader must decide how to handle it; it should not be touched. Do not take photos. Do not return to the community or sighting location until instructed to do so by those in charge; in the meantime, establish a campsite for shelter. |
| <b>D</b> | Document the encounter upon returning to a safe location, at that time, answering the questions they asked in as much detail as possible. Try to remember the location of the contact, the time of occurrence, the number of individuals observed, their physical characteristics, their demeanor, the sequence of events, and the presumed cause. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened.                                                                                                                                                                                |
| <b>I</b> | Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

5. If PIA are carrying weapons (bow and arrow, spears, stones, or other similar items), they should be asked to place them on the ground in order to communicate, emphasizing the fact that those approaching are also unarmed.
6. If no one can communicate in the language of PIA, these messages should be conveyed through signs or gestures.
7. In the event of PIA in need of health care, they must be treated by qualified personnel, in compliance with the protocols established by the governing body. If healthcare personnel are not present at that moment, they must be notified as soon as possible.
8. While it is preferable not to share objects with PIA, in certain exceptional situations, food from the chacra for direct consumption, such as local fruits, may be provided. Basic items such as pots, machetes or ropes could also be provided.
9. Do not share food or beverages from the same container, and do not hand out canned or packaged food. Avoid handing out clothes, since they can transmit diseases to PIA.
10. If deemed necessary, the exchange or delivery of goods should not be made directly into the hands of PIA. Objects should be left at a designated point, keeping a minimum distance of 5 meters for them to be collected. If PIA are located on the other bank of the creek, small vessels (canoes) may be used solely to transport such goods.
11. In any case, objects offered by PIA must be accepted, and they must not be prevented from taking any of their own objects.
12. If PIA do not retreat after this exchange, we will wait for instructions from the governing body. If at any time the contact escalates into violence on the part of PIA, it is preferable to keep the entire population sheltered in a safe place (school, community hall, medical post, etc.) or evacuate the community temporarily to another place.

#### **2.14.2.e Measures to be taken when recognizing evidence of the existence of PIA**

1. The relevant authorities are informed and State intervention is sought in highly sensitive situations beyond the capacity of local control, especially for the prevention of contact.
2. The State must develop precautionary measures and early warning systems to stop activities that may affect the integrity of PIA in their territory.
3. Agile and provisional administrative instruments must be guaranteed for the interdiction of areas where there is the possibility of the presence of isolated peoples, restricting the use and access of third parties, environmentally safeguarding the territory, as well as the necessary research processes for the recognition, identification and territorial definition of these peoples.
4. Settlers are informed of the existence of legal and criminal regulations in case of provoked contact, in order to avoid any attempt to capture people in isolation.
5. Initiate the identification process of PIA whose recognition process has been validated.



## Red Alert (imminent risk)

### Scenario 6

Indigenous people in isolation enter the community peacefully and try to establish contact and communicate. PIA are highly susceptible to contracting various diseases.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | <p>Moving away is not possible in this case. Protect the community at a single point previously defined by the community. Pay special attention to minors.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>N</b> | <ul style="list-style-type: none"> <li>• Do not contact or approach anyone if you are sick, and avoid aggressive or friendly gestures.</li> <li>• Try to treat each other respectfully and cordially. Remember that any peaceful contact can quickly turn violent.</li> <li>• If someone must interact with them, make sure it is a community's authority or a designated person, and do so at a distance of at least two meters. Do not sneeze or cough, cover your mouth with a tissue, or wear a face mask. If you cough, do so into the crook of your elbow. People with the flu, diarrhea, or other illnesses may NOT approach the isolated group.</li> <li>• Try to keep the group of isolated indigenous people together.</li> <li>• Identify the group leader(s) and engage in dialogue with them, if necessary, through signs or drawings, should verbal communication in a recognized language prove impossible.</li> <li>• Hand over any items they ask for, striving to minimize their number, and refrain from giving gifts.</li> <li>• If it is unavoidable that they acquire Western goods, exchange them for indigenous products such as food, blowpipes, baskets, or others.</li> <li>• If food must be provided, the woman cooking must be healthy and should only provide traditional foods (cassava, yam, chontaduro, fish or game meat without salt or oil, trisalsina, among others), without using plates, pots, or cutlery. Avoid giving salt, sugar, oils.</li> <li>• To the extent possible, refrain from consuming any food offered by the peoples in isolation until it has been treated by the traditional leader and consumption is permitted.</li> <li>• Do not lend or give away soaps, clothing, hammocks, towels, blankets, or other items of Western origin.</li> <li>• Avoid using electronic devices such as television, cell phone, computer and radio.</li> <li>• Do not establish affectionate relationships with isolated individuals, and avoid creating reasons for them to remain within your community.</li> </ul> |
| <b>D</b> | <p>Document the encounter upon returning to a safe location, at that time, answering the questions they asked in as much detail as possible. Try to remember the location of the contact, the time of occurrence, the number of individuals observed, their physical characteristics, the sequence of events, and the presumed cause. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened. Keep a log of events, recording all information deemed pertinent.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>I</b> | <p>Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

## Red Alert (imminent risk)

### Scenario 7

Indigenous people in isolation aggressively attack members of the community, resulting in someone being killed.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | Move away from the scene immediately if your life is in danger, assess the situation, and if possible, remove the body to a safe place. Try to contact someone in the community (by making smoke signals, shouting, etc.) to get them to come help. If you feel threatened, leave the body, seek assistance from the traditional healer or someone capable of providing aid, and follow their instructions. Retreat from the site for a reasonable amount of time and stay in a safe place.                                                                                                                            |
| <b>N</b> | Do not contact them. Do not respond to aggression; in cases of extreme necessity, utilize deterrent measures such as fireworks, blowing bamboo trumpets, or whistling. Under no circumstances should you engage in retaliatory actions. Do not touch the body or the weapon until the traditional leader indicates what to do. Try to remain calm, check if the person is still alive by listening to their breathing. Do not take photos. Do not return to the community or contact site until instructed to do so by those in charge, while proceeding to the meeting point previously established by the community. |
| <b>D</b> | Document the encounter upon returning to a safe location, at that time, answering the questions they asked in as much detail as possible. Try to remember the location of the contact, the time of occurrence, the number of individuals observed, their physical characteristics, the sequence of events, and the presumed cause. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened.                                                                                                               |
| <b>I</b> | Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |



## Red Alert (imminent risk)

### Scenario 8

An indigenous person in a natural state was found dead somewhere in the jungle.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | Move away from the body and the place quickly and quietly, taking care not to leave any items behind.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>N</b> | Do not contact them. Make sure the person is dead, try to interfere with the scene and the body as little as possible. If the person is dead, move away.                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>D</b> | Document the encounter upon returning to a safe location, at that time, answering the questions they asked in as much detail as possible. Try to remember the location of the contact, the time of occurrence, the number of individuals observed, their physical characteristics, the sequence of events, the presumed cause and if possible, determine the cause of death. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened. |
| <b>I</b> | Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.                                                                                                                                                                                                                                                                                                                                                                                                  |

## Red Alert (imminent risk)

### Scenario 9

An indigenous person in isolation was found injured and appears to be asking for help.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | <p>Moving away in this case is not the first alternative. Assess the situation from a distance, observe whether the injured person is alone or if there are people nearby.</p> <ul style="list-style-type: none"><li>• Should the individual require urgent care, approach with extreme caution. If the injured person does not exhibit resistance, try to provide aid using indigenous territorial elements such as plants, animals, clay, vines, fruits, flowers, etc.</li><li>• If the injured person is stable, try to let them know that you will seek help and return as soon as possible.</li><li>• Upon returning, before administering aid to the injured individual, apply or consume the medicine intended for the person in isolation to demonstrate that it is not harmful.</li></ul> |
| <b>N</b> | <p>Do not contact. If the injured individual requires urgent care and the traditional leader is far away, provide the necessary aid, focusing solely on the wound. Try to have only one person providing aid, if possible the traditional leader. If assistance is required, ensure that the number of individuals involved is kept to an absolute minimum. If the injured individual exhibits resistance, indicate with signs how to act.</p>                                                                                                                                                                                                                                                                                                                                                     |
| <b>D</b> | <p>Document the encounter upon returning to a safe location, at that time, answering the questions they asked in as much detail as possible. Try to remember the location of the contact, the time of occurrence, the number of individuals observed, their physical characteristics, the sequence of events, the presumed cause and if possible, determine the cause of death. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened.</p>                                                                                                                                                                                                                                          |
| <b>I</b> | <p>Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |





## Red Alert (imminent risk)

### Scenario 10

Indigenous people in their natural state take away a woman, a child, or any community member.

What can you do?

Apply the ANDI:



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | <p>Moving away is not possible in this case.</p> <ul style="list-style-type: none"> <li>• Certain people should immediately inform the traditional leader of the incident to determine the appropriate course of action. While some may desire to pursue the indigenous people in isolation to retrieve the hostage, it is imperative that no one follows the group until the traditional leader provides express instructions.</li> <li>• It is essential to meticulously observe the trail they take to follow their tracks, if necessary.</li> <li>• It is also crucial that someone should take responsibility for gathering the community members present, ensuring they remain united and preventing further detention or retaliation."</li> </ul> |
| <b>N</b> | <p>Do not follow them unless the traditional leader so instructs, avoid aggressive gestures, maintain a firm attitude. Try to stay calm.</p> <ul style="list-style-type: none"> <li>• Try to identify the group leader(s) and assess whether it is possible to establish communication with them for negotiation purposes, without putting any lives at risk.</li> <li>• If this action aids in the retrieval of the hostage, surrender the requested items, disinfected with alcohol, chlorine, or soap.</li> <li>• Do not touch or consume anything that the indigenous group in isolation may have left behind until the traditional group gives instructions to do so.</li> </ul>                                                                    |
| <b>D</b> | <p>Document the encounter upon returning to a safe location, at that time, answering the questions they asked in as much detail as possible. Try to remember the details of the kidnapped person (age, name, sex, date, time, physical description, ID, health status), the location of the contact, the time of occurrence, the number of individuals observed, their physical characteristics, the sequence of events, the presumed cause and if possible, determine the cause of death. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened.</p>                                                                                     |
| <b>I</b> | <p>Inform the community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## Red Alert (imminent risk)

### Scenario 11

You are being held against your will by a group of indigenous people in a natural state.

What can you do?



|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | Moving away is not possible in this case. Demonstrate resistance without harming anyone. Try to leave traces and shout to indicate the path to community members, if possible, give pertinent information (number of individuals, sex/gender of the isolated group members, types of weapons, whether you are injured, perceived demeanor, approximate distance traveled, and any key signs encountered along the route).                                                                                                                                       |
| <b>N</b> | Do not make expressive gestures, stay alert. Try to stay calm, try to identify the group leader(s) and assess whether it is possible to establish communication with them to negotiate. Do not touch or consume anything offered to you by peoples in isolation, unless absolutely necessary.                                                                                                                                                                                                                                                                   |
| <b>D</b> | Documenting the events will only be possible when you return to the community, at which point you should answer their questions in as much detail as possible. Try to remember the details of what was observed, the location of the contact, the time of occurrence, the number of individuals observed, their physical characteristics, the sequence of events, and the presumed cause. Do not share the information with the rest of the community; only inform the indigenous authority of the exact location and detailed information about what happened. |
| <b>I</b> | Upon return, promptly inform the traditional healer for healing and protection. Then inform your community's authority, who should contact: the traditional authority, the spokesperson, and the local National Natural Parks official.                                                                                                                                                                                                                                                                                                                         |

## Red Alert (imminent risk)

### Scenario 12

There are suspicions of possible contact with PIA by missionaries, researchers, explorers, illegal actors, or others.

What can you do?



**A**

Notify the indigenous authority of any suspicions regarding the potential presence of actors from outside the territory who want to or may come into contact with PIA.

**N**

Do not put your life at risk, be cautious and prudent.

**D**

Describe your suspicions in as much detail as possible, answering questions posed by the relevant authorities. Try to remember the location of the event, the time of occurrence, the number of individuals observed, their physical characteristics, the sequence of events, and the presumed cause.

**I**

Inform the community's authority, who will be responsible for communicating with the relevant authorities.



### 2.14.3 Steps for recognition

Table 15 outlines the steps in the process of recognizing the existence of a specific indigenous group in isolation.

Table 15. Steps for recognition

| Office work                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>1.</b><br/>Preliminary survey of evidence</p>       | <p><b>a.</b> Evidence systematization.<br/> <b>b.</b> Bibliographic survey.<br/> <b>c.</b> Creation of a database.<br/> <b>d.</b> Database feeding.<br/> <b>e.</b> Field action planning.<br/> <b>f.</b> Definition of the field work methodology.<br/> <b>g.</b> Identify and obtain copies of maps and satellite images of the region.</p>                                                                                                                                                                                                                                                                                                                                                                                          |
| Office work                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>2.</b><br/>Verification of evidence</p>             | <p><b>a.</b> It is strongly recommended that prior to commencing fieldwork, consultations and work agenda dissemination meetings be held with indigenous communities or regional communities. They should also be informed of the existence of legal and criminal regulations in case of provoked contact, in order to avoid any attempt to “capture” people in isolation.<br/> <b>b.</b> Conduct interviews with primary and secondary sources.<br/> <b>c.</b> Field trips to verify evidence (when confirmed that pia are not in the region).<br/> <b>d.</b> Conduct visits to obtain further evidence.<br/> <b>e.</b> Plan overflights from database records.<br/> <b>f.</b> Document all actions undertaken during fieldwork.</p> |
| Office work                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>3.</b><br/>Systematization of field information</p> | <p><b>a.</b> Prepare a comprehensive report that systematically compiles all fieldwork information.<sup>169</sup><br/> <b>b.</b> Plot on a map all information gathered during fieldwork.<br/> <b>c.</b> Attach to the report all records obtained during fieldwork.<br/> <b>d.</b> Update the database.</p>                                                                                                                                                                                                                                                                                                                                                                                                                          |

<sup>169</sup> Given the high mobility of isolated indigenous peoples within their territory (periodic and repeated seasonal displacements and, in some cases, displacements due to fleeing invaders or “camouflage” processes of their evidence), it is possible that fieldwork, at first, may not encounter such evidence. Hasty interpretations and conclusions should be avoided. In these cases, fieldwork must continue with other expeditions, developing exhaustive surveys until irrefutable conclusive data are available. It should be noted that indigenous



| Office work                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>4.</b><br>Measures to be taken upon recognition of evidence of PIA | <ul style="list-style-type: none"><li><b>a.</b> Officialize the findings of the field work before the competent authority;</li><li><b>b.</b> The intervention of the State is sought to take appropriate administrative and legal measures to promote the effective protection of the PIA, especially for the prevention of contact;</li><li><b>c.</b> The State should develop precautionary measures to halt activities that may affect the integrity of PIA in its territory;</li><li><b>d.</b> Initiate the process of identification of PIA that have validated their recognition process.</li></ul> |

logics do not coincide with those of “non-indigenous” individuals, therefore, the participation of indigenous people in the teams (especially elders who experienced no contact) is of utmost importance.

## 2.15

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