

Research proposal

This research paper is one of the three components that lead to an internship worth 30 credits towards the BA International Studies degree. The research proposal must be discussed with, and approved by, a Leiden University Humanities faculty member with a Ph.D. and the academic internship supervisor. After this approval, it should be submitted to the Board of Examiners, together with your Internship Plan. The proposal should consist of a literature review, research question or hypothesis, methodology, provisional outline, bibliography (between 2,000 - 2,500 words, all inclusive) and a schedule. The proposal should lead to a paper consisting of a minimum of 7.000 words, all inclusive (including the bibliography).

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**Proposed number of credits**

7 EC

**Research question or hypothesis**

*How has the Inter-American Human Right Court contributed to the protection of indigenous human rights through the judgements of the massacre of Plan de Sánchez, the massacres of Ríos Negros and the case of Chitay Nech in Guatemala?*

**Introduction:**

Concerning the member countries of the Organisation of American States (OAS), there live estimated 40 million indigenous people whose human rights are frequently disregarded (Shelton 937). Moreover, the international jurisprudence, just as many national legal systems, lacks coherence and full protection for indigenous rights (938). Besides a history of indigenous genocide in the region, many indigenous tribes still find themselves as incapable of pursuing justice. It is in this context that the Inter-American Human Right Court (IAHRC) located in San José, Costa Rica counts as important institution for the protection of these minority rights and the prosecution of perpetrators (Davidson 2). Generally, the court functions under the Inter-American system and according to Davidson it “is empowered to rule on the compatibility with such instruments of the domestic laws of the OAS member states” (2). Several cases of indigenous human rights violation throughout the OAS member states have successfully been brought to the courtroom. Consequently, the court has also functioned as organ to raise awareness about these issues and has been able to develop significant aspects on the indigenous right protection. In this context, the cases of the massacre of Plan de Sánchez, massacres of Ríos Negros and the case of Chitay Nech in Guatemala can be analysed in order to determine the impact of the Inter-American Human Right Court. All three cases occurred during the Guatemalan civil war and comprise political instability and violent military activity. Moreover, the cases demonstrate multiple violations against the Inter-American Convention on Human Rights for which they have been brought to the court room of the Inter-American Human Right Court and thus are valuable for this research. Through examining these diverse cases that have been brought to court, it will be evaluated how the IAHRC has contributed to the protection of indigenous human rights.

In particular, the research will take context based background into consideration such as the political history of the civil war as well as the history of indigenous communities in Guatemala. Moreover, it will be examined how Guatemala has acted towards the Inter-American Human Right Court, how it has operated with the sentences and to what extent it has fulfilled reparations in all three cases.

In the context of this framework and debate, this research presented here will discuss how the human rights of indigenous people in Central America, especially in Guatemala, have developed since the creation of the IAHRC. For this, the cases of Plan de Sánchez Massacre, Masacres de Río Negro and the Case Chitay Nech in Guatemala will be taken into consideration as each of them will try to represent a different aspect of indigenous right. In 2004 the IAHRC ruled that the Guatemalan state was guilty for the massacre in the village of Plan de Sánchez in 1982 and obligated the Guatemalan state to cover restitutions (Dill 25). In the same context of the civil war, the massacre of Rios Negros in 1978 was condemned a year in 2005 later by the court. Contrary, the case of Chitay Nech represents not a massacre but a crime of forced disappearance during the Guatemalan civil war and thus adds to the Guatemalan context of indigenous rights violations that have been brought to the court room in San José. Generally, all three Guatemalan cases concern the prosecution of prosecutors and the request for justice. Another important aspect of this analysis will be how the different approaches of indigenous rights violation (genocide and forced disappearance) contribute to an overall advancement for indigenous right protection throughout the Inter-American Human Right System.

The purpose of this research is less a juridical analysis of legal instruments but aims to analyse the three cases from a more historic and political perspective in order to apply its establishments to a broader context of the functions and the impact of the Inter-American Human Right Court. Furthermore, research for this will be conducted through investigations, literature analysis and through making use of the institutions own library as well as the accessible data from the file archive. Finally, based on the research done during the first phase of the internship a thesis statement will be formulated. This thesis will then be assessed against all the evidence found at the end of the research period, and a conclusion will be written based on this assessment.

**Literature Review**

The research will be based on academic literature that grasps the civil war of Guatemala from a historical and political perspective such as the chapter by Dwight Wilson in the book Latin American Politics and Development by Harvey F. Kline and Howard J. Wiarda. Wilson describes how the civil war consisted of a military force that brutally encountered the leftist insurgents that were mainly made up by communists and Indigenous groups (Kline, Wiarda 409). Consequently, the author determines how the process of democratisation and the long period of political instability in Guatemala during the civil war has harmed the Indigenous population the most. Moreover, the chapter also takes into consideration the importance of the emergence of human rights groups in Guatemala which will be an essential aspect of the analysis.

Additionally, the research will analyse the system of the Human Rights protection under the Organisation of the Americas through relevant articles such as “History and Action: the Inter-American Human Rights System and the Role of the Inter-American Commission on Human Rights” by Robert K. Goldman. The article focuses on the origins of the Inter-American Human Rights system, its challenges and how it has emerged to be an persistent element in all member states. Additionally, articles such as “Accountability for Past Human Rights Violations: Contributions of the Inter-American Organs” of Protection by Juan E. Méndez and Javier Mariezcurrena helps to question the Inter-American Human Rights system and develop a comprehension of the phenomenon of impunity from a more critical point of view.

The diverse literature that will constitute the research paper will reveal the rise of indigenous identity politics in Guatemala that allowed the indigenous groups to address the Inter-American Human Right Court and consequently enabled them to position themselves in the system of the Human Rights protection under the Organisation of the Americas.

**Research Methodology**

Foremost, the official resolutions and documentations provided the Inter-American Human Right Court itself will be analysed. This will contribute to a more technical comprehension of the three cases. I also intend to use the insights and contacts I gained during my time at the Inter-American Human Right Court to work on my own research. Interviews will be conducted with available employees of the Human Right Court that have been contributive to the three Guatemalan cases such as the former judge Manuel E. Ventura Robles who has been involved in all three cases and now functions in the Library of the Human Right Court. These interviews will be prepared with regards to the context related literature and comprise critical questions for which the guidance of the research supervisor may be requested. Moreover, the interviews tend to further claims that arise from the theoretical research as well as add to a stricter defined comprehension of the topic through a more inside perspective. Through speaking with key figures such as former judges and assistants that have operated in the cases, it will be possible to reinforce or criticise arguments that have been established through the research based on academic literature. Following, these interviews will lead to brief, qualitative case studies, which illustrate the protection of indigenous human rights. Given the fact that I will be primarily working in the court’s own library, I plan to use as many primary sources as possible related to the topic, both in Spanish and English. A detailed description about the primary sources for the research will be defined during the internship once it becomes clear what data is accessible. All primary sources I use will be thoroughly checked to ensure their reliability, and any biases present in either literature or data will be taken into account and mentioned pertinently. This research will take a descriptive approach leading to a conclusion in which the strengths and weaknesses of indigenous human right protection will be identified, based on theory as well as local practice.

**Provisional Outline**

Introduction

* The introduction will discuss the role of the Inter-American Human Right Court, establish the significance of the general Human Right protection and define the history of indigenous human right protection in the Latin American context
* The motivation for this research will be justified, arguing that the IAHRC functions as facilitator for the protection of Indigenous Human Rights
* Guatemalan indigenous history will be defined as an interesting case study for the analysis of indigenous right development under the system by the Organisation of the American States
* Political history of the civil war will be analysed to establish clearer comprehension of the background of the cases
* Explicit definitions for the terminologies that will be employed throughout the paper will also be provided in this section.
* The structure of the following paper, the research question, and the final thesis will be explicitly stated towards the end of the Introduction and referred back to throughout the paper

Part 1: Literature Review and Background

* An assessment of broader literature than the one present in the document. It will discuss the relevant academic literature by categorising them in concepts, and then present the credibility of each concept, as well as its shortcomings in the face of recent events.
* Through this literature review, the historical background of indigenous human right protection will be defined
* Develop framework which will be applied to the case studies

Part 2: Analysis of Guatemalan Indigenous Human Right Cases

* This section will apply the framework that has been established through the literature review on the specific cases.
* It aims to clarify how the Inter-American Human Right Court has contributed to the development of indigenous human right protection
* The main objective for this part is to link theoretical framework to the case studies for a broader comprehension of the Court as organ for a regional recognition of indigenous rights
* Potential case studies will be introduced once it has been established what data from the IAHRC can be used

Part 3: Outcome of the three cases

* Assessment how Guatemala has acted towards the IAHRC since the three cases
* Discussing the fulfilment of reparations that Guatemala was coerced
* Analyse current potential conflicts between the Guatemalan national government and the relevant indigenous communities
* Determine the Guatemala’s further action towards the faced sentences by the Inter-American Human Right Court

Conclusion and Outlook

* Rephrase findings
* Analyse if the initial thesis holds with regards to the evoked perspectives
* Based on this analysis, to what extent the IAHRC promotes the rights of indigenous communities.
* Explain how this research contributes to a better comprehension of the issue presented
* Clarify what potential the IAHRC possess for further promotion of indigenous rights throughout the OAS member states.
* Define possible gaps which can be used for further research

**Monthly schedule (listing duties such as data collection, analysis, writing)**

July:

- Study the most important literature on the topic, including journal articles and textbooks.

- Write a concise analysis of the existing literature by discussing all the major strands in academia with regards to the topic. This will not be just a synopsis of pre-existing work but a critical assessment of it. Weekly documentation of literature reviewed and data collected

September:

- Find primary sources, especially data from the IAHRC file achieve (as far as possible)

* Outline case studies to which the framework can be applied
* Weekly documentation of literature reviewed and data collected

October:

* Preparation of the interview with regards to the literature available
* Create questions for the interview with guidance by the organization and faculty supervisor
* Interview relevant scholars that are available within the IAHRC
* Weekly documentation of literature reviewed and data collected

November:

- Assess the potential gaps in the material gathered

- Analyse all previously written sections, and write a full assessment of their significance within the broad research question of defining what was is the influence of the IAHRC on indigenous right protection.

* If necessary, revisit primary sources
* Weekly documentation of literature reviewed and data collected

December:

* First Draft of the research paper:
  + write research report based on the weekly notations
  + analysis all sources and arrange order of how they can be used
  + Define concrete theories and concepts to be used
  + Formulate a clear and specific thesis based on the research of primary and secondary sources conducted
  + Apply case studies to the theoretical framework
* Let the research be reviewed by several peers before sending it to the faculty supervisor

January:

* Analyse whether the thesis holds against the evidence found during the last months
* Final version of the research paper
* Include all feedback and comments received by peers

**Bibliography**

Burgorgue-Larsen, Laurence, Amaya Úbeda De Torres, and Rosalind Greenstein. *The Inter-*

*American Court of Human Rights: Case-law and Commentary*. Oxford: Oxford UP, 2011. Print.

Davidson, Scott. *The Inter-American Court of Human Rights*. Aldershot: Dartmouth, 1992.

Print.

Davidson, Scott. *The Inter-American Human Rights System*. Aldershot, England: Dartmouth,

1997. Print.

Dill, Kathleen. “Repairing” Plan De Sánchez: Reparations and the Subjects of History. Anthropology News 50.4 (2009): 25-33. Web.

Langer, Erick Detlef., and Elena Muñoz. *Contemporary Indigenous Movements in Latin*

*America*. Wilmington, DE: SR, 2003. Print.

Méndez, Juan E., and Javier Mariezcurrena. Accountability for Past Human Rights Violations: Contributions of the Inter-American Organs of Protection. Shadows of State Terrorism: Impunity In Latin America 78th ser. 26.4 (1999): 84-106. Web.

Pasqualucci, Jo M. *The Practice and Procedure of the Inter-American Court of Human Rights*.

Cambridge, UK: Cambridge UP, 2013. Print.

Postero, Nancy Grey., and León Zamosc. *The Struggle for Indigenous Rights in Latin*

*America*. Brighton: Sussex Academic, 2004. Print.

Stavenhagen, Rodolfo. *Derecho Indígena Y Derechos Humanos En América Latina*. México,

D.F.: Instituto Interamericano De Derechos Humanos, 1988. Print.

Wiarda, Howard J., and Harvey F. Kline. *Latin American Politics and Development*. Boulder, CO: Westview, 2013. Print.

**Signatures**

Name Date and place Signature

Academic Internship Supervisor:

Faculty Supervisor :

Board of Examiners :