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Liberal Citizenship and the Isolated Tribes of Brazil¹

(This is the penultimate version of a paper that is forthcoming in *Public Affairs Quarterly*).

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“They are the last free people on this planet.”

José Carlos dos Reis Meirelles, Brazilian National Indian Foundation (FUNAI)

The New Yorker, August 2016

In the year 1500, when Portuguese explorers first arrived in what is today known as Porto Seguro, Brazil, there were 3 to 4 million indigenous people living in tribes across the eastern South American territory. Following both amicable and hostile interactions between the Portuguese and the native population, the crown of Portugal took possession of the Brazilian territory, and started a process of colonization that radically transformed the social landscape of Brazil. From members of politically independent semi-nomadic tribes, native Brazilians became a politically subjugated and oppressed people (Skidmore 2009).

Apart from losing their political independence, many native Brazilians were murdered, enslaved, expelled from their traditional lands, and forced to convert to the Christian faith (Skidmore 2009). The violence became less severe and widespread with the creation of an independent Brazilian Republic in 1889, but a full range of assimilationist and racist policies still marked the relationship between the Brazilian

state and indigenous people for most of the 20th century (Gomes 2003). Today, most indigenous Brazilians, among members of other marginalized social groups, struggle with the pressures of extractive capitalism, low-paid jobs, low-quality public services, and the ill effects of racism (Coimbra Jr and Santos 2000).

Amidst this tragic history, it is surprising to learn that some Amazonian tribes did not become politically or culturally subjugated. These so-called isolated tribes have been the subjects of a no-contact policy by the Brazilian government since 1987, which prevents any form of contact between members and non-members. Indeed, both state officials and members of the general public are legally prevented from contacting members of isolated tribes on the grounds that contact would expose isolated indigenous persons to dangerous illnesses as well as violate their right to “determine their own life processes” (FUNAI 2006). Brazil’s first justification for its no-contact policy can be interpreted as either a constraint against serious harm or a right to health. The second justification can be interpreted as a variant of a right to self-determination.²

In this essay, I aim to answer the following question: *can the Brazilian state implement a policy that precludes members of isolated tribes from being contacted by non-members without violating core liberal principles?* I take it that such a focus on liberal principles is warranted here because the Brazilian state regards itself as a liberal state under the rule of law (“Estado Liberal de Direito”), and because liberal co-citizenship is seen by many contemporary political theorists as an important vehicle for the implementation of the ideals of freedom and equality. As Seth Lazar puts it, “[s]ubstantive liberalism starts from the obvious premise that each person is of great, and equal, moral worth, and aims to establish, on this basis, what we owe to each other as a matter of justice—that is, what we can demand from one another, and

coercively enforce.” (Lazar 2010, p. 249). In light of this, it becomes important for liberal theory to deliver its own verdict about the legitimacy of a public policy that affects both the relationship between non-indigenous and indigenous citizens, and the degree of freedom each group can exercise in their lives.

Now, one might think that quite apart from Brazil’s self-conception, this is a state that has failed significantly in its attempt to live up to liberal values. Anyone who visits Brazil will likely see more evidence of poverty than of a society marked by a great degree of personal freedom and social equality (See Power 2016). One might also think that the applied question of whether the no-contact policy abides by liberal values is simply not worth asking. Philosophers should neither quibble about a developing state’s policy agenda, nor focus on specific policies, when attempting to uncover the precise meaning of liberal forms of co-citizenship.

The first concern is unduly uncharitable to Brazil. The second concern is unduly charitable to abstract forms of theorizing. Brazil is indeed a state that is marked by pockets of severe poverty and human rights violations. But Brazil is also a democratic state that has a very progressive liberal constitution, which guarantees, among other things, freedom of the press (Art 5 and Art 220), a right to a minimum wage (ART 7) and a right to public health care and education (Art 6). And whilst it is certainly true that a specific policy aimed at regulating the relationship between indigenous and non-indigenous persons cannot give us a full story about the meaning of liberal citizenship, it can certainly test the strength of our commitments to freedom and equality in the face of competing pressures for cultural preservation and socio-economic assimilation. I therefore hope that this discussion delivers the following two results. First, I hope that the discussion will tell us whether such an unprecedented policy can be justified by an appeal to liberal values. Second, I hope that the

discussion will make more transparent the precise relationship between liberal citizenship and self-determination under non-ideal conditions.³

The discussion to follow has four parts. In Part I, I briefly describe the no-contact policy that is currently in force in Brazil, under the auspices of the National Indian Foundation (FUNAI), a public body charged with the task of promoting and protecting the interests of indigenous peoples in Brazil. In Part II, I note that the health costs attached to first contact are not as severe as they were in the past, and that this has important implications for the legitimacy of the no-contact policy. In Part III, I put pressure on the idea that indigenous peoples are better able to determine their own life processes if the state prevents non-members from contacting them. In fact, I show that there are good reasons for thinking that such an approach by the state actually *violates* the right of indigenous people to fully shape the content of their lives. In Part IV, I survey four other potential liberal justifications for the no-contact policy, and show that they fail. The result of the discussion is that there is no *liberal* justification for a public policy that prevents one segment of the population from contacting another on the presumption that this best serves the latter's interests.⁴ Only by rejecting the tenets of liberalism, can the advocates of the no-contact policy make a compelling case for its legitimacy.

I

According to FUNAI, there are over a hundred isolated tribes in remote parts of the Amazon, some of which have been clearly identified by state officials, and some of which are merely presumed to exist. (Funai 2006b).⁵ These tribes vary a great deal in size, with many tribes appearing to have less than 120 individuals, and only one

appearing to have more than 400 members (Walker, Kesler and Hill, 2016). In all cases, though, there is a lack of on-going (even if sporadic) contact with members of the general public, through the purchase of services, commercial activities and tourism. This means that isolated tribes are not even mildly connected to the wider web of social, cultural and economic relationships that form the basic structure of Brazilian society (FUNAI 2006b).

Notwithstanding the lack of on-going contact, it is possible that some members of isolated tribes are in fact aware of the existence of non-members. This could be the result of members having briefly spotted or briefly interacted with non-isolated indigenous persons or state officials in the past. Indeed, the concept of isolation employed here is not meant to suggest that knowledge about outsiders is not at all present, but rather to highlight the fact that these tribes find themselves in a position where they must meet their basic needs without any support from the state or charitable organizations. As one author explains: “They’re an uncontacted tribe in the sense that they live without contact with Brazilian national society or contacted tribe. We are not saying they’ve never had contact, just that those alive today live without it”^{6 7}

Apart from the remoteness of their geographic position, the main reason why such tribes still exist in the Amazon forest can be traced back to 1987, when the Brazilian state implemented a comprehensive no-contact policy towards these tribes. The policy itself prevents the development of economic activities within the territory of isolated tribes, and prevents the arrival and movement of outside goods and persons (FUNAI 2006b). Most importantly, the policy expects FUNAI to promote and protect the basic rights of isolated indigenous peoples—with a special focus on their right to land and its natural resources, their right to health, and their right to culture—

without engaging in direct contact with them (FUNAI 2006b; CTI 2016).⁸ Such a focus on land, resources, health and culture is inspired by the same liberal values that inspired the 1988 Brazilian Constitution. There, indigenous Brazilians are granted a right against the state, to maintain their “culture, identity, and way of being (Art 231)” (Funai 2006b).

But to what extent is the Brazilian state uniquely responsible for the isolation of so many Amazonian tribes? After all, one might think that these groups have clearly expressed their desire to stay isolated and that the policy is simply justified on that basis. Although compelling at first glance, this suggestion finds little support in the official justification for the no-contact policy, which makes no mention of consent on the part of affected tribes. On the contrary, the justification appeals to the following two interests: (i) an interest on the part of members of isolated tribes not to acquire deadly and debilitating illnesses, and, (ii) an interest on the part of the group to determine their own life processes (FUNAI 2006). One would think that if these groups had clearly signalled their desire to stay isolated, the Brazilian state would simply point to this fact when justifying its policy.⁹

It is, however, important to acknowledge that some isolated groups might find themselves in isolation due to a conscious decision by its members to avoid contact with state officials and members of the general public. There are of course issues of cultural translation at play here, and a hostile first interaction could have been a sign of fear as opposed to the outcome of a collective decision on the part of members to avoid contact with outsiders on an on-going basis. As is to be expected, there is scarce empirical evidence bearing on this question, but it is plausible to think that in some cases, there has been a clear communication by the group that it does not want any form of contact with outsiders (Miller 2013). For such groups, the discussion to

follow will not apply. The focus here is indeed on groups that are isolated *as a result* of the no-contact policy.

So what shall we make of Brazil's twofold justification for preventing one segment of the population from contacting another?¹⁰ In the next two sections, I argue that both justifications that the Brazilian state has given in support of its policy actually grate against the demands of liberal citizenship. Later, I show that other potential liberal justifications also fail.

II

The first official rationale for the no-contact policy is that contact between members of isolated tribes and outsiders would lead the former to acquire deadly and debilitating illness from the latter and this would have devastating effects on their health and well-being. The idea here is that indigenous persons have suffered a great deal from first contact in the past, and that such suffering should be avoided by a comprehensive state-led policy of no-contact.

To begin with, there is no denying that indigenous people's health has suffered a great deal from first contact in the past, especially during the colonial era. However, the empirical claim behind this justification has recently been challenged by anthropologists Robert S. Walker and Kim R. Hill. In a polemic editorial in the journal *Science*, Walker and Hill argue that contact can in fact be carried out without exposing members of isolated tribes to deadly and debilitating illnesses (2015). They also argue that most isolated tribes in the Amazon are in fact heading towards extinction, and that this is partly due to the health threats they face under conditions of isolation.

Walker and Hill's major criticism of the no-contact policy is that it is based on a pessimistic and ill informed understanding of the health effects that follow a fully planned first contact between isolated tribes and government officials. To back up this claim, they point to evidence showing that if first contact takes place with the support of well-trained and well-resourced health care professionals, the mortality rate can be close to zero (Walker and Hill 2015; Walker, Kesler and Hill 2016). Even more strongly, Walker and Hill suggest that the health of members of isolated tribes can be at greater risk in case of unplanned contact with members of the general public. This is because unplanned contact necessarily takes place without rapid response by health care professionals, and such response is essential in cases where isolated tribes are exposed to pathogens that they are not immune to. As they explain: "well-designed contact can be quite safe, compared to the disastrous outcomes from accidental contacts. But safe contact requires a qualified team of cultural translators and health care professionals that is committed to staying on site for more than a year" (Walker and Hill 2015).

As I see it, Walker and Hill are correct in putting pressure on the legitimacy of the non-contact policy by critically assessing its empirical component. For if the no-contact policy is partly justified on the assumption that first contact necessarily leads to disastrous outcomes, then it certainly matters that the empirical evidence tells us otherwise.¹¹ Notwithstanding the lack of empirical evidence for the strong claim that first contact necessarily leads to disastrous outcome, there is a weaker claim which is immune to the empirical evidence. The idea here is that the no-contact policy protects isolated tribes from being foreseeably exposed to illnesses that lead to a great loss of well-being.

This is undoubtedly a more promising justification, but it is one that would still depend on the balance of health costs and benefits that comes with first contact. This is because among liberal states, Brazil employs one of the most generous interpretations of what a right to health amounts to and has affirmed a right to health care for its citizenry in both law and practice (Galvão 2005). And once we understand the right to health as one that gives rise to both negative and positive obligations on the part of the state, then this line of justification becomes dependent on a cost/benefit analysis. For there can arguably be a number of threats to the health of isolated indigenous persons which would in fact require state intervention in the form of health care services. The rate of maternal and child death could be so high in those tribes, for instance, that state intervention would lead to less death, less disability, and less loss of well-being, overall.

In sum, the cogency of appealing to the health effects of contact for the justification of the no-contact policy depends on the expected costs and benefits attached to first contact, and those attached to a lack of contact. If Walker and Hill are correct about the low risk of serious harm attached to the former, then that takes away much of the force of this first line of justification (At most, an appeal to the health costs attached to contact provides the Brazilian state with a consideration against intervention under conditions where it lacks appropriate medical technology and personnel).¹²

But what about a right to determine one's life processes? Does this right justify the Brazilian state's policy of keeping indigenous people in a position of isolation? It is to this question that we now turn.

III

At first glance, a no-contact policy seems like the perfect antidote to a colonial history that has robbed so many indigenous people from enjoying the status and benefits of collective self-determination.¹³ Given the history of violent contact between indigenous people and non-indigenous people in South America, one might reasonably worry that any kind of interference, no matter how respectful and autonomy-promoting, would fail to respect the right of isolated tribes to determine their own life processes.

There is no denying that colonialism was deeply unjust, and that the Brazilian state must do all it can to address the harmful effects of this past injustice and to protect the core rights of indigenous people, such as their right to land, health and culture. However, the no-contact policy is not tremendously distinct from a civilizing form of colonialism, whereby colonizers impose, without consultation, a given socio-political arrangement on their colonies because they take such an arrangement to be to the colony's benefit. Indeed, both civilizing colonizers and the architects of the no-contact policy have refrained from consulting indigenous peoples about the political arrangements and decisions that directly affect their lives, and have instead proceeded as if they know best what indigenous people are owed as a matter of social justice (Ypi 2013; Stilz 2015. See also Goodin 2007). Such blatant paternalism towards a segment of the population cannot be easily reconciled with the liberal ideal that all persons are free and equal.

To better see what is at stake, we must disambiguate between the different senses of collective self-determination in the liberal tradition. Once we see what is valuable about liberal self-determination, we will be in a better position to see why it cannot justify the no-contact policy.

Contemporary liberal political theorists working on self-determination typically distinguish two understandings of self-determination: a collective right to secede and a collective right to political autonomy (Wellman 2005; Kymlicka 2010). Whereas the first presupposes a right to one's own territory and political institutions in the form of one's own state, the second only entails a right to an additional degree of political freedom vis-à-vis self-regarding affairs and in comparison with fellow members of society. This means that both members of a state and members of a politically autonomous region within a state will enjoy self-determination, albeit of a different kind. They will also both enjoy political autonomy but will do so to a different degree. One could also capture these two senses of self-determination by claiming that self-determination always entails a right to collective political autonomy, but in that in some cases, that right is so strong that it gives members a right to form (or maintain) their own state.

As mentioned above, the Brazilian state partly justifies its no-contact policy by appealing to the importance of indigenous people determining their own life processes. However, it neither believes that isolated tribes should form their own state nor that these tribes should count as a politically autonomous region, whose collective decisions feeds into Brazilian law and policy-making. This suggests that the Brazilian state has a different understanding of self-determination in mind, one where collective autonomy is realized through a lack of day-to-day interference by outsiders.¹⁴ The question then is: what is the actual relationship between self-determination and government-led isolation? The Brazilian state sees it as a positive relationship when it comes to indigenous persons. The more isolated the tribe, the more self-determining their members are. I am going to argue, however, that if we start with liberal

assumptions about the moral equality of persons and their right to be free from paternalism, the relationship actually goes the other way.

The problem is this: self-determination and isolation are not co-extensive. A group can be highly politically autonomous without being isolated. Think here of the Quebecois in Canada.¹⁵ This is a highly autonomous political group of Canadian citizens but one that is not economically, socially and culturally self-sufficient. In fact, the Quebecois use their political autonomy to engage in economic relationships with other regions of Canada, and to interact at the cultural level with fellow Francophone nations. It is true that Quebec could use its political autonomy to become more self-sufficient, and so to engage in less trade and cultural exchange. But it is also true that they could choose to become even more economically and culturally integrated within the wider Canadian society, and the world at large. In either case, they would be making their own decision about their own political future, and so would be exercising their right to self-determination *qua* right to collective political autonomy.

The opposite is true of isolated tribes. It is true that they are radically isolated, and that their economic, social and cultural life takes place without any influence whatsoever from the outside world. The problem is that such isolation is not a result of a conscious decision made by members of the collective to lead life in an extreme form of self-sufficiency (save of course in the cases discussed earlier which might have involved some form of consent). Instead, isolation here is the direct result of the paternalistic decision made on the part of the Brazilian state not to contact and not let anyone else contact these tribes. It is as if Quebec was a by-product of a decision made by the Canadian state to prevent Anglophone entrance and interference in Quebec so that Francophone citizens would enjoy complete cultural, social, and

economic independence. While we can cogently claim that this alternative Quebec would be radically self-sufficient, it would be deeply problematic to claim that they were in fact self-determining.

It is important to emphasize that I am not claiming that self-determination and self-sufficiency are mutually exclusive. One can easily imagine an arrangement whereby previously isolated indigenous Brazilians would consider all their options, and then ask the state to enforce a non-interference policy. We can further imagine that such an arrangement would allow for future generations to also make their own decision as to whether or not they would like to continue in a position of isolation. In such case, current and future generations of isolated tribes would be directing their own future, and not having self-sufficiency imposed on them from the outside—although, of course, the isolation in question would involve sporadic contact between indigenous persons and state officials, and would not be of the more radical kind where a binding decision in favour of isolation is made by a current generation on behalf of all generations to come.

IV

In the previous two sections we examined the official twofold justification offered by the Brazilian government for the no-contact policy and have seen that they both fail. The question for this section is: could there be other considerations that appeal to liberal values and yet deliver the result that a non-contact policy is in fact legitimate?

One consideration is that contact between members of isolated tribes and non-members could potentially lead to social harm. Indeed, it seems like the Brazilian state could appeal instead to the right of indigenous persons not to suffer the effects of

marginalization and oppression, which are the likely consequences of their coming into contact with state officials and members of the general public. As one commentator explains: “Disease is the first threat, followed later by individuals’ despair caused by disruption of everything that is precious to life, leading to alcoholism, unemployment, family breakdown, early death. (Miller 2013, p. 44).” The Brazilian state could therefore claim that if there is a choice to be made between lack of self-determination of the part of the collective and socio-economic marginalization on the part of individuals, it must choose the former.

There are two problems with this strategy. First, it is not obvious that the only two futures available to indigenous people in Brazil are socio-economic marginalization or lack of collective self-determination. Some state policies and programs seem to have been successful in integrating consenting indigenous Brazilians into the larger economy and providing them with basic public services and socio-economic opportunities (Garfield 2001). But even if it is true that the Brazilian state is utterly incapable of promoting and protecting the socio-economic rights of its indigenous population, this would still not justify the no-contact policy. When presented with facts about life outside Amazon, some members of isolated tribes might well endorse the current arrangement as a way of avoiding ending up at the bottom of the Brazilian social hierarchy (or due to genuine pro-attitudes towards isolation), but some might still choose to exercise their liberal right to exit by leaving the tribe, or their right to self-determination by collectively deciding against isolation (Raz 2017, 45). Treating persons as free and equal requires respecting their right to make their own choices about their personal and political lives, even when those choices fail to track what we think to be in their best interests.

There is an additional strategy available to the Brazilian state, however. The strategy here is to deny the charge of paternalism and to claim that state officials are simply adopting a conservative policy of risk aversion and not encouraging indigenous persons to remain self-sufficient. Because Brazil does not actively prevent members of isolated tribes from leaving their traditional land and exploring the options afforded by the larger Brazilian society, it is not actually violating their liberal right to exit and reducing the degree of personal and political autonomy they can exercise in their lives. State officials might also point out that although it is unfortunate that isolated indigenous people are likely to be ignorant of the fact that they are citizens of a state that provides a range of services and opportunities to its citizens, including a right to political participation, it is still not the job of the state to address such state of ignorance.

A lot here depends on how we interpret the liberal right to exit. It seems plausible to think that citizens of minority groups should have important information about the larger society made available to them so they can decide for themselves whether to stay in the minority group or to leave it (see Kymlicka 1989). But even if a liberal right to exit is not violated by the non-contact policy, Brazil's approach to isolated tribes still amounts to an impermissible form of paternalism. Because autonomy violations take place by both actions and omissions, liberals should be wary of a state that makes high-stake decision on behalf of some of its citizens without consulting or informing them because it presumes to have a superior ability in tracking their interests (Shiffrin 2000).

To be sure, this sort of paternalism by omission is not as explicit as classic forms of paternalism involving coercion, but is no less disrespectful of human beings qua autonomous agents (Ibid; Raz 1986). Indeed, just like classical forms of

paternalism, paternalism by omission involves an agent who imposes her will and has it exert control on another agent because of their presumed superior ability in tracking one or more of the other agent's interests. This is why it is (say) paternalistic for a manager not to inform a female member of his team about opportunities for promotion on the grounds that as a woman, she would deal with a great deal of sexism were she to come up through the ranks. Similarly, it is paternalistic for the Brazilian state to refrain from contacting indigenous tribes on the ground that isolation best serves their individual and collective interests.

A third strategy in support of the no-contact policy is to deny that members of isolated tribes count as Brazilian citizens. The idea here is that the right of isolated tribes to self-determination entails a right to their own territory and/or political institutions, and that in the same way that the Brazilian state does no wrong when it refrains from contacting citizens from Venezuela at the northern border, it does no wrong in not contacting members of isolated tribes.

There is both an empirical and a normative version of this response. The empirical version clearly does not work since Brazil employs a principle of *jus soli* for citizenship allocation that automatically applies to members of isolated tribes. Moreover, the state legislates about isolated tribes and makes all sorts of policy decisions under the assumption that members of isolated tribes are citizens despite their isolation.¹⁶

The more interesting point here is the one that would see isolated tribes as *entitled* to self-determination in the strong sense, as either entitled to their own state or having a greater degree of political autonomy. Neither of these routes can justify the no-contact policy, however. If isolated tribes have a right to their own state, then Brazil lacks the legitimacy of preventing non-citizens from entering the territory of

another nation, even it could somehow justify a violation of the right of Brazilian citizens to exit their own state.¹⁷ But if we think that isolated indigenous peoples should enjoy a greater degree of autonomy than their fellow citizens vis-à-vis self-regarding affairs, then we are back to the problem that isolation does not allow for the sort of consultation and collective decision-making which typically marks the relationship between national government and politically autonomous region within the state. Saying that isolated indigenous tribes form a politically autonomous region is like saying that Quebec would count as a politically autonomous region even if they had been created by Anglophone citizens through a no-contact policy.

A final line of justification appeals to the liberal right of indigenous persons to collective flourishing, culturally understood. The worry here is that first contact can not be reversed, and some ways of life might become impossible after contact and consultation. This is why anthropologists Walker and Hill are critical of the no-contact policy only as it pertains to tribes that are under serious danger of extinction due to the presumed low number of members. For tribes that appear to be doing well, Walker and Hill agree that the no-contact policy best serve their interests (2015).

It is certainly important to be explicit about the fact that even the most respectful variant of exchange between members of isolated tribes and state officials will mark the end of the cultural uniqueness of these groups. But here we must ask ourselves: who exactly has an interest in isolating one culture so that it is not influenced by another? Whilst some might bemoan the end of the cultural uniqueness that comes with first contact between indigenous persons and state officials, the liberal state cannot restrict important liberal freedoms, such as freedom from paternalism and a right to political participation, in order to prevent it from happening.¹⁸ Instead, what the liberal state owes all its citizens is to place them in a

position where they can make meaningful decisions about their personal lives and their collective political future. Some of these decisions might well be about the importance of cultural preservation. But they could also be about the importance of cultural integration. The burden is on the Brazilian state to show that the preservation of culture can come at the cost of individual freedom and social equality. Until then, liberals should interpret a commitment to liberal values as a commitment to treating persons as ends in themselves and not as means to the maintenance of the cultural uniqueness of some groups in society.

Before I conclude the discussion, let me note that I am well aware of the constraints the Brazilian state would face were it to contact and consult isolated tribes about their individuals and collective aspirations. Indeed, I can certainly imagine how deeply unsettling it would be for members of isolated tribes to first learn about the cultural and social norms that govern the larger Brazilian society, as well as foresee the economic and religious forces that would attempt to take advantage of the fact that isolated indigenous persons would take time to learn about their rights and entitlements. This is why contact would only be justified if it could be carried out by (well-trained and well-resourced) health care professionals and public officials who understand the importance of empowering indigenous persons to make their own personal and political decisions, as well as resist unwelcoming pressures for cultural, religious and economic assimilation. Given the current political instability in Brazil, and the high levels of corruption among members of the legislature, it is unlikely that Brazil will soon find itself in a position where a contact policy would in fact be morally justified. This leaves Brazil in the awkward position whereby any of its approach to isolated tribes will be morally problematic. A policy of isolation is illegitimate from a liberal point of view, but contact under non-ideal conditions is all-

things-considered unjustified. The only way out for Brazil and the supporters of the non-contact policy is to reject the tenants of liberalism that give rise to the dilemma in the first place.¹⁹

Conclusion

I began this discussion with the intention of making progress on the following two questions relating to Brazil's no-contact policy: the applied question of whether such an unprecedented policy could be justified by an appeal to liberal values; and the theoretical question of how liberal citizenship and self-determination interact under non-ideal conditions.

I hope it is clear by now that the answer to the first question is negative. If we start with the liberal ideals of freedom and equality, then we lack the theoretical resources to defend a policy whereby one segment of the population is prevented from contacting another due to a judgment on the part of the state that isolation best serve the interests of those left uncontacted. Indeed, a state-led policy of isolation could only be rendered legitimate if it posed a threat to life or liberty or if it was a result of a collective decision *by members of isolated tribes* not to engage in any form of integration with the wider society.

But what about the second question? Does the case of isolated tribes actually put us in a better position to uncover the meaning of liberal forms of citizenship? I believe it does. Recall that liberal citizenship starts with the assumption that all members of the state should be treated as free and equal. Moreover, a liberal state is a state charged with the promotion and protection of citizens' basic human rights, including a right to culture, identity and a way of being. In the abstract these

commitments are understood to be mutually supportive, but the Amazonian case shows that they can easily come apart. Indeed, the Brazilian state can only treat members of isolated tribes as free and equal by consulting them about how they hope to lead their lives, and yet, once consultation takes place, the cultural or identity choice of continuing being uncontacted by the state is no longer possible. Liberal citizenship therefore precludes uncontacted ways of live because contact between citizens and the state turns out to be necessary for the realization of the liberal ideals of freedom and equality. This is either bad news for Brazil's liberal credentials, or for liberalism more generally.

¹ For very helpful suggestions and comments, I would like to thank Christian Barry, Maiara Cardoso, Stephanie Collins, Ryan Cox, Annelien De Dijn, Holly Lawford-Smith, Liam Shields, and the audiences at the Figure of the Citizen workshop and the JSI seminar at the University of Sydney.

² In official documents and bulletins, the language of self-determination (autodeterminação) is used interchangeable with the idea of control over one's life processes (CTI 2016). In section III, we will examine in more detail the relationship between control over one's life processes and self-determination.

³ This should be of interest to those who believe that non-ideal theory plays an important role in testing the strength and scope of the abstract principles that typically emerge from ideal forms of theorizing (Valentini 2009; 2012).

⁴ This is not to suggest that this question could not be assessed via communitarian or realist lenses. The question of whether this form of isolation is legitimate might be answered differently depending on which principles of justice or legitimacy one theorises with. My purpose here is, however, to engage in an internal critique of the Brazilian liberal project.

⁵ FUNAI primarily employs the following mechanisms for locating and monitoring isolated tribes: field trips, archival research, reconnaissance flights, and analysis of satellite image (CTI 2016).

⁶ David Hill from Survival International being interviewed by Hearn 2008, p. 2.

⁷ It is possible that previous generations of many such isolated tribes will have intentionally isolated themselves to avoid the effects of colonialism and the assimilationist policies of the first part of the 20th Century. This does not mean, however, that current generations have meaningfully consented to their isolation.

⁸ Note that FUNAI has a special organ charged with task of implementing the no-contact policy: the Coordenação Geral de Índios Isolados e Recém Contatados (CGIIRC). For an overview of this body, see CTI 2016.

⁹ Note that isolated tribes in other South-American states also fall outside the scope of the discussion (unless they find themselves in the Brazilian territory for a significant part of their lives).

¹⁰ Another assumption in the discussion is that these are not tribes that violate the basic human rights of its own members. Here I follow Lantz Miller (2013) in thinking that liberal states should give minority groups the benefit of the doubt, and assume that they do not engage in slavery, mass rape, and torture, unless there is strong evidence to the contrary. I also assume that such evidence can be gathered by the use of reconnaissance flights and field trips. See *supra* note 3.

¹¹ To be sure, it may well be that there are problems with the empirical studies employed by Walker and Hill, and that first contact continues to be extremely risky. Whether or not this means that the non-contact policy can be justified will again depend on the risks attached to a lack of contact. At any rate, in order to successfully justify its non-contact policy, the Brazilian state needs to provide empirical evidence that defeats Walker and Hill's contention that first contact is less dangerous than lack of contact.

¹² I do not mean to deny that a right against harm should figure as a moral constraint on any policy on the part of the state towards any of its citizens. I also do not mean to suggest that health care interventions should take place without the consent of indigenous populations. The claim here is simply that, as it stands, the first justification fails.

¹³ Here I assume that collective autonomy or group self-determination is valuable both for the role it plays in facilitating political agency (and the realization of justice that is dependent on it), and in expanding the degree of autonomy people can exercise in their personal lives.

¹⁴ See *supra* note 1.

¹⁵ We might think that the analogy involving Quebec does not tell us anything meaningful about isolation and paternalism because the Quebecois share an European identity with the larger Canadian society. For those who think that it is the shared European values which are doing the work in driving intuitions against forced isolation, we can change the case slightly so that Quebec is not formed by Francophone citizens, but by indigenous groups, and that it was formed by Anglophone Canadians without consulting and through a no-contact policy. I take it that we reach the same result here: if we start with liberal principles, we reach the conclusion that it would be paternalistic for Anglophone Canadians to implement such a policy towards the indigenous population inhabiting the Canadian territory. I thank a reviewer for raising this concern.

¹⁶ One might think that despite Brazil's endorsement of *Jus Soli*, isolated persons might be owed some rights of citizenship without being entitled to the *status* of citizen. Although it might be true that some groups of denizens should be given many of the rights of citizenship without necessarily being entitled to citizenship, the presumption should always be in favour of full and equal citizenship unless there is a very compelling reason in favour of semi-citizenship. The aim of the essay is precisely to show that there is no *liberal* justification for treating isolated indigenous persons as semi-citizens. For a discussion of semi-citizenship, see Cohen 2009.

¹⁷ Some philosophers deny that there is in fact an unconditional or *prima facie* right to exit one's own state and that a liberal state can in fact prevent their citizens from emigrating. For a discussion, see Ypi (2008). Note thought that even if a denial of a right to exit by the state can in fact be squared with liberal principles, this would still not legitimize the no-contact policy since Brazil prevents both Brazilian citizens and foreign nationals from entering into the territory of isolated tribes.

¹⁸ See Will Kymlicka (1989; 2001) for the claim that liberal principles impose constraints on the actions of both minority and majority groups within a liberal society. Note that I am neither constraining myself to Kymlicka's own liberal theory of minority rights, nor suggesting that he would agree with everything I say in this essay.

¹⁹ The aim of the essay was not to justify liberalism, but to ask what the implications are of taking both liberalism and the rights of indigenous persons seriously. As it becomes clear, if we think that a right against cultural change counts as a core indigenous right, then one might have to abandon its commitments to liberalism. Similarly, if one takes liberal values as non-negotiable, then we must concede that the non-contact policy is in fact illegitimate. For a compelling critique of liberalism's ability to do justice to indigenous persons, see Coulthard (2014); Simpson (2014). For a defence, see Barry (2002). For a more nuanced view, see Iveson (2016).

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