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organizador

LINGUA(GENS), LITERATURAS, CULTURAS, IDENTIDADES E DIREITOS INDÍGENAS NO BRASIL



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INDÍGENAS NO BRASIL:**
análises, reflexões e perspectivas



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INDIGENOUS RIGHTS, NECROPOLITICS AND THE “DAILY GENOCIDES” OF BRAZIL’S NATIVE AND TRADITIONAL PEOPLES

Erick da Luz Scherf⁵⁵

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José Everton da Silva⁵⁷

“Para el derecho penal internacional genocidio es la acción tendente a hacer desaparecer en todo o en parte determinados grupos humanos entre los que los pueblos indígenas están hoy expresamente comprendidos. Una política de acoso incluso incruento a comunidades persiguiendo la neutralización y ninguneo del correspondiente pueblo, con esta determinada intención, puede constituir genocidio; si a esto se suma la violencia sanguinaria más o menos selectiva, sin necesidad de que sea masiva, tal delito es paladino.”

Bartolomé Clavero (2011, p. 11)

INTRODUCTION

From the time of “discovery” (or invasion) in 1500 up to 1970, Brazilian Indigenous populations decreased considerably, and many Indigenous peoples were extinct (FUNAI, 2010). On the latest national survey, the Brazilian Census of 2010 revealed that the Indigenous population was of around 817 thousand people divided into more than 300 peoples, compared to almost 4 million before invasion by the Portuguese Crown. More recently, according to Damiani, Pereira, and Nocetti (2018), in the region of Latin America, Brazil has become the leader when it comes to the assassination of Indigenous persons⁵⁸.

On the verge of contemporary conservatism and social regression, violence against the Indigenous population has increased significantly since 2016, represented in many forms including (but not limited to): increased childhood mortality, violent murder, and negligence or slowness in regularizing Indige-

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⁵⁸ This article considers the definition of indigenous or tribal peoples set by the International Labour Organization (ILO) on Convention No 169, which was also adopted by the Brazilian legislation on the matter (ILO, 1989).

nous lands (CONSELHO INDIGENISTA MISSIONÁRIO, 2016). Additionally, with the new coronavirus outbreak in early 2020 in Brazil, findings showed a high, but disproportionate burden of COVID-19 on the Indigenous population in the country (SANTOS *et al.*, 2020).

Equally or similarly, traditional peoples and communities (TPCs)⁵⁹ in Brazil - which are composed by Indigenous persons as well as by other culturally diverse people such as: *Quilombolas*, Artisanal fishermen, “Extractivists”, Riverine people, Gypsies and those belonging to *Terreiro* communities (among others) – have also been threatened with violence, persecution, and rights violations. According to a recent report published by Human Rights Watch (HRW) in 2020, although violence against Brazilian TPCs has been a chronic problem for decades, the election of current president Jair Bolsonaro has led to an escalation on violence against Indigenous peoples and TPCs in the country, especially due to land-related conflicts and relaxation or dismantle of environmental protection laws (MINISTÉRIO PÚBLICO FEDERAL, 2020).

Thus, the main argument of this chapter is that the dangerous combination of neoconservatism (FORTES, 2016), neoliberal/necropolitical policies (DALL’ALBA *et al.*, 2021), and the strengthening of the agribusiness lobby (IORIS, 2016) is leading to rights violations and the “daily genocides” of Indigenous peoples and TPCs in Brazil, even though this sort of genocide may not be recognized by international law. To sustain our argument, we adopt Bartolomé Clavero’s (2011) definition of *genocidios cotidianos* (“daily genocides”) and apply it to the experience of the subjects under analysis. We also argue that the concept of “necropolitics”, coined by Achille Mbembe, is somewhat essential to understanding this type of violence.

INDIGENOUS RIGHTS, HUMAN RIGHTS AND DEMOCRATIC DECAY IN BRAZIL

Like everyone else, Indigenous people (as well as members of other TPCs) enjoy, or should enjoy, all the human rights norms and principles enshrined in international treaties, customary international law, constitutions, national laws, and moral systems across the globe. However, Indigenous persons need to have specific rights because of their unique position as first peoples of their nations and their increased vulnerability in some parts of the world:

⁵⁹ This definition was adopted based on the 2017 National Policy for Sustainable Development of the Traditional Peoples and Communities issued by the former Brazilian Ministry of Social Development, which considers TPCs to be: culturally differentiated groups that recognize themselves as such, that have their own forms of social organization, that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral and economic reproduction, using knowledge, innovations and practices generated and transmitted by tradition (SECRETARIA ESPECIAL DO DESENVOLVIMENTO SOCIAL, 2021).

Often due to the lingering effects of colonization and oppression, Indigenous people are vulnerable to discrimination and mistreatment and excluded from effectively participating in processes that affect their rights. This means that today they are more likely to experience poverty, imprisonment, poor health and restrictions on self-determination (AMNESTY INTERNATIONAL AUSTRALIA, 2021, online).

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) of 2007 is the most comprehensive international instrument on the matter. According to the Australian Human Rights Commission (2021, online): “it establishes a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to Indigenous peoples”. In the context of the UNDRIP, issues that are essential to Indigenous peoples include (but are not limited to) the rights to non-discrimination, self-identification, land rights and development.

However, even though some argue that the Declaration carries “significant legal weight” in the context of international human rights law (BARNABAS, 2017), others question its limitations in terms of the recognition of collective rights (ENGLE, 2011) and regarding its relevance to Indigenous peoples in their struggle for survival (HENDERSON, 2014).

In Brazil, the contemporary situation of the demarcation and land title regularization processes (or lack thereof) of Indigenous lands may be one the most pressing issues related to the rights of Indigenous peoples and TPCs, amongst others. According to Silva (2018), the protection and demarcation of Indigenous lands is very important, as it makes it possible for these peoples to secure a space that provide them with a means of economic subsistence and development, continuance of cultural practices, and overall survival. Nonetheless, since 2016 especially, the situation of Indigenous peoples and traditional peoples and communities, especially in relation to processes of self-determination and access to territories, has significantly worsened with the emergence of the “new right” and increasing democratic decay:

This has been especially pronounced under the last two governments of Michel Temer and Jair Bolsonaro, including the revocation of legal frameworks, closure of social oversight forums, dismantling of State apparatuses, suppression of social programs, and budget cuts. Some specific threats are worth highlighting: the Direct Action on Unconstitutionality put into effect by the Democratas Party in relation to Decree 4887/2003;

PEC 215, which transfers to Congress decisions concerning the demarcation and regularization of indigenous lands and the territories of quilombola communities and traditional peoples and communities; the CPI introduced in the Chamber of Deputies against the work of FUNAI, INCRA and anthropologists in land regularization processes, which has been shelved but may return; among other risks (COSTA-FILHO, 2020, p. 14).

Thus, even though Brazil does have a quite extensive legal apparatus – found in international instruments as well as in the Federal Constitution and all the infra-constitutional legislation and regulation at federal, state and municipal levels - designed to protect both Indigenous persons and members of TPCs, it has not been enough to stop contemporary undemocratic movements fueled with social regression and right-wing extremism from violating and dismantling the rights of these historically excluded groups.

ENVIRONMENTAL DAMAGE, NECROPOLITICS AND THE “DAILY GENOCIDE” OF BRAZILIAN INDIGENOUS AND TRADITIONAL PEOPLES

Even though Brazil has dealt with environmental issues for decades, since 2016 and especially after Brazilian President Jair Bolsonaro has stepped into office in 2018, the country has witnessed a decay in environmental law enforcement and a considerable rise in deforestation, especially in the Brazilian Amazon (ESCOBAR, 2020). Taking into account that Indigenous peoples (and TPCs at some level) are key to forest conservation efforts and the protection of global biodiversity (RAYGORODETSKY, 2018; COLCHESTER, 2004), they are viewed as a threat to Bolsonaro's Administration and its anti-environment agenda.

The election of Bolsonaro represented, among many other things, the victory of neoliberal and agribusiness interests over environmental protection causes, a fact that became clearer as the Government went on to destroy major environmental protection policies, despite the large environmental protection legislation Brazil possesses (SILVA; SCHERF, 2020; CAPELARI *et al.*, 2020). The Brazilian example showcases how, independently from constitutional and international legal provisions, the assault on the environment can be explicitly engineered to meet private interests, such as those held by the agribusiness lobby (PEREIRA *et al.*, 2019).

This dismantling of environmental policies has also been accompanied by a public discourse based on the argument that non-interference in Indigenous lands and environmental protection shuts off the country's progress, which resulted in: a) slowness or a complete stop in demarcating Indigenous

lands; b) the dismantling of the environmental regulation system and general relaxation on inspection; c) the systematic use of lying and distorted information on numerous environmental issues, including the false assertion that the data on deforestation are manipulated (BARRETTO-FILHO, 2020). All this has conveyed a general feeling among farmers and rural leaders who support the current administration that the Government has their back, which led to the systematic invasion of protected areas and Indigenous Lands.

In late 2019, farmers and loggers in the Amazon region started clearing land by burning the rainforest to show support for Bolsonaro's loosening of environmental restrictions (LOPES, 2019). In consequence, there has been a significant rise in illegal deforestation since then as Bolsonaro has said that more commercial farming and mining in the Amazon rainforest are necessary to "lift the region out of poverty". In September 2020, at least 160 illegal fires on the Indigenous lands of Pantanal were registered. Almost half of the regularized Indigenous areas in the region faced severe burnings that have destroyed villages, homes, agriculture crops and led to hospitalizations due to respiratory problems (MUNIZ; FONSECA; RIBEIRO, 2020; HRW, 2020b). In sum, Indigenous peoples and TPCs are being put under threat constantly by Bolsonaro's administration and its supporters, facing a process of increased socio-environmental vulnerability and violation of the rights to land, culture, health and to enjoy a healthy and clean environment (ROCHA; PORTO, 2020).

These constant symbolic and physical attacks on Indigenous peoples and TPCs are part of a necropolitical strategy employed by the President and by his administration, including the Minister of the Environment, Ricardo Salles, who is currently facing corruption charges on a massive illegal logging scandal. Necropolitics can be understood as the subjugation of life to the power of death (MBEMBE, 2019). "Under everyday necropolitics, a mass of populations live under extremely precarious conditions and as such, can be exploited and eliminated 'naturally'" (PELE, 2020, online). This everyday creation of "death-worlds" for Indigenous peoples, TPCs and every other person deemed perishable to modern-day capitalism (because they cannot be exploited anymore or do not wish to participate in the workforce) allows the Government to share the use of violence and eliminate certain populations in "small doses", through social, economic, and symbolic violence (MBEMBE, 2019; PELE, 2020). By reducing environmental policies, suppressing access to social welfare, delaying the regularization of Indigenous lands, and inciting a narrative of violence and neo-colonial practices, Jair Bolsonaro and his allies are creating the perfect conditions to strip native peoples from their living means and lead them to death without a bloodbath.

In this sense, the concept of necropolitics is closely related to that of "daily genocides", coined by Bartolomé Clavero to explain the contemporary violence perpetrated against the Indigenous peoples of Latin America.

According to Gomes (2021), the daily genocides of Indigenous peoples - in Brazil and throughout Latin America - relates to the expropriation of nature and the ineffectiveness of land rights, whereas companies and other private actors exploit natural resources with the consent and promotion of the state and state agents. With the expression “daily genocide” (*genocídios cotidianos*), Clavero (2011) refers to the gradual disappearance of Indigenous peoples and communities in some Latin American countries (including Brazil), driven by large transnational corporations (mining, oil, forestry, and others) and by government authorities themselves. It differs from the classic definition of genocide under the UN Convention on the Prevention and Punishment of the Crime of Genocide because it employs different methods that do not necessarily involve widespread massacre, instead, it aims at the destruction of cultures, livelihoods, and silent extermination.

FINAL REMARKS

The current attempt at exterminating the Indigenous peoples and other Native or Traditional communities of Brazil is, among other things, a byproduct of neoliberal and necropolitical forces, supported by Jair Bolsonaro’s administration, and their wish to subjugate the environment and exploit the natural resources that are still available in certain territories that once were protected by environmental laws. The disappearance of these peoples would allow the complete exploitation of their territories for the purposes of capitalist economic activity, which can be achieved through daily acts of violence that are not necessarily deemed illegal under the law and are not perceived as genocide in its classic definition. Thus, the concepts of necropolitics and “daily genocides” can help us better understand the current existential risk that Indigenous peoples and TPCs are facing on a regular basis in contemporary Brazilian society.

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