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**Master's degree in**

**Human Rights and Multi-level Governance**



# Human Rights and Multi-Level Governance: Protecting Indigenous Peoples in Brazil amidst COVID-19

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# Abstract

This thesis investigates the interaction between different levels of government and Civil Society Organizations (CSOs) in ensuring the right to healthcare for Indigenous peoples in Brazil during the COVID-19 pandemic. Utilizing the Spiral Model of Human Rights Change, it explores the concept of multi-level governance within a federal state structure. The study proposes a "spiral within the spiral" approach, highlighting how domestic dynamics among federal, state, and municipal governments and CSOs create additional layers of interaction and pressure to uphold human rights commitments. The research underscores the governance challenges and responses by examining state contingency plans, city actions, and the role of CSOs. Furthermore, it contextualizes the historical struggle of Brazil's Indigenous Peoples, tracing their resistance from the military dictatorship era to the present time. The study stresses the importance of comprehending governance through a multi-level lens, recognizing the significant impact of local actors and civil society in shaping human rights outcomes. The findings reveal that even in the face of neglect from one level of power, other governmental levels and CSOs can lead to substantial advancements in human rights, offering valuable insights for policymaking and advocacy in similar contexts.

Key-words: Human Rights, Multi-level Governance, Indigenous Peoples, Brazil, COVID-19

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# Introduction

This work aims to comprehend how different levels of government and Civil Society Organizations (CSOs) behaved and interacted among them in guaranteeing the right to healthcare for the Indigenous Peoples of Brazil during the COVID-19 pandemic that started in 2020. The proposal also involves a theoretical approach using the Spiral Model of Human Rights Change (Risse & Sikkink, 2008). With its potential to explain changes in domestic human rights policies, this model combines a complex spiral of actions involving several actors in the domestic and international arena. In our work, we plan to expand this concept of a spiral to one within the national state and, in this sense, comprehend how different levels of government can act and impact the enjoyment of human rights.

It also adds to the academia of multi-level governance, considering that Brazil is a federal state, which separates power and responsibility between the federal, state, and municipal governments. Federalization, a form of multi-level governance, has been used to share power between different political actors to avoid being excessively concentrated in only one institution. It is also a way to keep communities with a few interests, ends, and values in common while respecting some differences. Moreover, federalism makes the duties of the State more achievable, as local powers tend to have more direct access to the population and its needs. Of course, federalism and the division of power between several actors add another level of complexity to policymaking and can exacerbate regional disparities. According to Brazilian law, Indigenous matters are mostly concentrated in the federal sphere. However, state and city officials can also play a role in developing and implementing policies.

Our main argument is that there is a spiral within the spiral. This proposed approach recognizes that, within the broader national and international pressures influencing state behavior as proposed by the spiral model, there are additional layers of interaction and pressure among various levels of government (federal, state, and municipal) and civil society actors. In Brazil, these domestic dynamics can create a secondary spiral where state and local governments and CSOs pressure the federal government and each other to uphold human rights commitments. These interactions are directly connected to the multi-level

governance literature because it recognizes the complexity of governance, which is not limited to a single entity or state actors.

Usually, a country is treated as a unique entity in international law, even though it has multiple domestics levels of government and actors. This means that in case of, per se, human rights violations in Brazil, it is not a city or a state that will be called upon to respond, but the Brazilian state (as a whole and sole entity) that the federal government internationally represents. Nevertheless, the implementation process goes through many other actors independent of the federal level. This also means that in the case of omission of the federal government, the states and cities may act to promote human rights.

In this sense, the central hypothesis of this work is that, given the federal government's neglect in providing healthcare to Indigenous Peoples, a spiral of actions between other actors prompted by the initial violations generated proactive engagement and intervention by state and local governments with CSOs.

To analyze these interactions our study concentrated on the contingency plans designed by the states and how they addressed the need to ensure access to healthcare for Indigenous Peoples. All the plans are under legislative normative status and correspond to how each Brazilian state decided to tackle the challenge of providing care to Indigenous Peoples. In addition to that, our research tried to look at the work of other CSOs and cities during the first year of the pandemic. Our work combined a search for news websites and information on Indigenous organizations' websites.

To arrive in the moment where the pandemic hits Brazil and chaos unfolds, it is important to go back a few years before the outbreak. In 2018, Brazil the largest democracy in the southern hemisphere, held its eighth presidential election since the fall of the military dictatorship in the 1980s. The country of over 200 million people was also celebrating the 30th anniversary of its Constitution, known as the "Citizenship Constitution" (*Constituição Cidadã*, in Portuguese). Between 1987 and 1988, millions took to the streets and the galleries of the National Congress to fight for the enshrinement of many of those rights. High school students campaigned for the right to vote at sixteen, healthcare workers proposed the world's most extensive universal healthcare system, and Indigenous people

fought for their right to land and culture. Ever since multiple social groups have struggled to have their Constitutional rights respected and recognized.

While promulgating the new Constitution was a critical moment for human rights in Brazil, the rest of the country's legal framework still remains attached to many past laws. A controversial "amnesty law" edited in the last years of the military dictatorship protected state officials involved in multiple human rights violations from future prosecutions. Brazil never put the military on trial, unlike other South American countries such as Argentina and Chile.

In 2018, for the first time since the 1980s, the armed forces were once again intensely involved in the political scenario. Jair Bolsonaro, a retired army captain who later became a federal deputy by the state of Rio de Janeiro, was running for president with Hamilton Mourão, a former high-ranking army general, as his vice-president. Bolsonaro had openly said that he supported the dictatorship[1] and, on multiple occasions, downplayed human rights[2]. During his years in Congress and during the presential campaign, Bolsonaro had many targets, from women[3] to the LGBTQ+ community[4], and he also had very strong statements against the Indigenous Peoples.

The Indigenous people of Brazil have a population of over 1 million who spam across the territory, but that is mainly located in the Amazon rainforest - in the country's northern region (FUNAI, 2023). There is a vast cultural and linguistic diversity among

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[1] Leading Brazilian newspaper, O Globo, reports that Bolsonaro publicly defended the military dictatorship at least eight times (Mergulhão & Castro, 2021).

[2] Bolsonaro once wore a T-shirt calling human rights the "dung of vagabondage" (Congresso em Foco, 2017).

[3] Brazilian news organization Poder 360 found that Bolsoanro has a history of attacking women. When he was a member of Congress, he said he "would not rape" a female colleague because she did not "deserve it"; he said he only had a daughter because he was "weak" during sexual intercourse; during the presidential campaign he claimed a journalist was "offering sexual services" to obtain information; and according to him, businesses should have the right to fire a woman because she was pregnant (Poder 360, 2022).

[4] Bolsonaro has said that he "would rather have a dead son than a gay son" and that "nobody likes gays, we only tolerate it" (Estado de Minas, 2021).

Brazilian Indigenous groups. Indigenous people have been structurally mistreated and targeted by the state. The right to land and culture is one of their primary rights claims, but, in essence, their right to exist. Bolsonaro promised during his campaign that "no piece of Indigenous land would be recognized" by the federal government (Agência Pública, 2023).

According to Brazilian law, the federal government is responsible for recognizing Indigenous land. After being recognized as Indigenous land, the possession of the land belongs to the state for the single purpose of use by the Indigenous people. It also gives the federal government the responsibility to protect the area and those living there against threats. Some interpret that only Indigenous people residing in recognized lands are holders of Indigenous rights. However, the country's Supreme Court has not recognized this view.

As of today, Bolsonaro has been denounced more than once to the International Criminal Court because of the actions and inactions of his government in providing care to the Indigenous people during the pandemic[5]. Rights groups seek prosecution in the International Criminal Court, claiming Bolsonaro was responsible for the genocide of these populations.

The COVID-19 pandemic placed enormous pressure on the healthcare system of most countries across the globe. In Brazil, most of the population relies on the state-run Unified Health System, or SUS (in Portuguese, *Sistema Único de Saúde*). The SUS is the world's most extensive public healthcare system and the only one that provides free medical assistance to all people within the Brazilian territory, regardless of citizenship, residence status, or any other social-cultural-economic aspect.

The competence of healthcare became a matter of discussion in the Brazilian Supreme Court in the early days of the pandemic. Initially, trying to stop science-oriented social distancing measures, Bolsonaro claimed that he was the only one who could enact "lockdown" type measures and other COVID-related policies. Using this Supreme Court decision, Bolsonaro not only removed his government from the fight against COVID-19 but claimed that he could not act because of it. Brazil had no official health minister for

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[5] Bolsonaro has been denounced by Indigenous groups and ethnic organizations in different proceedings (DW, 2021).

over six months during the most significant healthcare crisis in years. An army general ran the Ministry of Health without any expertise in the matter and whose works before were connected to the logistics of military goods. Despite his logistics "experience," Manaus, the largest city in the Amazon basin with over two million people, stayed days without oxygen for its hospitals.

This work is divided into four chapters and the final remarks. The first chapter presents an overview of the literature concerning human rights and later focuses on the spiral model. Afterward, we will present the multi-level governance framework to help comprehend policies. In the second chapter, we address the issues of the Indigenous movement in Brazil, starting the first articulation during the Military Dictatorship (1964-1984) to the present day. Our primary focus will be on the process of enshrining Indigenous rights into the 1988 Constitution and designing a specific policy to ensure the right to healthcare of the Indigenous Peoples.

The work proceeds to the third chapter to analyze the conduct of Jair Bolsonaro during the COVID-19 pandemic, mainly during the first year of the pandemic (comprising March 2020 to March 2021). Initially, we present a general compact of the events and actions of the federal government during this period, including a key Brazilian Supreme Court decision that ruled that all levels of governance have a role in providing healthcare and deciding on measures to fight the pandemic. Later in the third chapter, our attention shifts to how Bolsonaro's government dealt with the pandemic regarding the Indigenous Peoples, again addressing another Supreme Court decision that tried to force the federal government to take more actions to protect and provide care for this population. The fourth chapter analyzes the government's response at other levels to the pandemic. In this chapter we will analyze the state's contingency plans and other actions taken by city officials. In addition to that we will present the importance that CSOs had in this process.

# Chapter one – Human Rights and Multi-level Governance

This chapter will explore the foundations of Human Rights in international law and politics, including the establishment of the Universal Declaration of Human Rights (UDHR) and other relevant treaties that followed, mainly the International Covenants on Civil and Political Rights (ICCPR) and the one on Economic, Social and Cultural Rights (ICESCR). These instruments have collectively established an international normative framework. Further, the chapter examines the interplay between human rights and the social sciences. It underscores the necessity of understanding human rights through an interdisciplinary lens, incorporating insights from the Social Sciences.

The Spiral Model of Human Rights Change, a theoretical approach discussed in this chapter, illustrates how states internalize international norms through a series of phases involving repression, denial, tactical concessions, prescriptive status, and rule-consistent behavior. This model underscores the importance of both international and domestic actors in pushing for human rights compliance and the process of socialization. The chapter also introduces the concept of multi-level governance, emphasizing the complexity of policymaking in a context where multiple layers of government and non-state actors interact. This approach is particularly relevant for understanding the implementation of human rights.

Ultimately, this chapter argues for recognizing a spiral within the spiral, proposing that within the broader context of international human rights pressures, there are additional layers of interaction and pressure among various levels of government and civil society actors. This secondary spiral can significantly influence human rights outcomes.

## 1.0 International Human Rights Instruments

Human rights as we know it today were established by the Universal Declaration of Human Rights (UDHR) in 1948. The use of the word "universal" is no accident. Historically, rights have been associated with citizenship, taking the French Declaration of the Rights of Man and the Citizen as an example, it is clear by the name of it that right are

directly associated with the state and its sovereignty, with the idea of being a citizen. Until this time, the idea of *natural law* had been abandoned for a more rational, state and citizenship-centered approach. Human rights law gave the state obligations, making it a main duty barrier, but to all peoples – whether citizens of such state, of other states or even stateless people – and in every part of the globe, Human rights are also comprehensive. They can be related to education, housing, voting, and preserving one's culture.

The UDHR soon became the guiding principle of human rights and a pillar of the then-recently created United Nations (UN). Nonetheless, declarations lack binding power, so during the early years of the UN, there was an initiative to produce international treaties to protect and safeguard human rights as part of international law. The 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the 1951 Convention Relating to the Status of Refugees (also referred to as the Geneva Convention) were the first significant achievements. Most countries are part of both. These conventions, however, have limited scope as each deals only with one human rights issue. Starting in the early 1950s, the UN started working on a broader document to put into law the principles of the UDHR.

After World War II, the world became divided into two sides at the start of the Cold War. On one side, there was the Western capitalist liberal order led by the United States of America, and on the other side, an Eastern communist order led by the Soviet Union. This divide made elaborating treaties that both sides could accept and adopt much more difficult. The UN had difficulties operating in its early years because of the rivalry between both sides. Eventually, not one but two international covenants were proposed, each echoing the view of one side of the Cold War.

In 1966, the United Nations General Assembly (UNGR) adopted the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). They came into force only in 1972 when enough countries had ratified them. The UDHR and the two covenants form what is known as the *International Bill of Human Rights*.

While both treaties cover a wide range of rights, because Western interests resided mainly in the ICCPR, it has received more attention through the years. A key example is

that, while each covenant has one monitoring body[6], the one for the ICCPR received the name of "*Human Rights Committee,*" although it does not deal with the whole complexity and extension of human rights.

Some scholars used to argue that civil and political rights are "first generation" rights and economic, social, and cultural rights are "second generation." It is understood that while both accessions were different, they are indissociable.

Many other human rights treaties have followed since the two covenants came into force, not only in the scope of the UN but also on regional systems (in particular, in the Americas, Europe, and Africa). Other international organizations like the International Labor Organization (ILO) also play a significant role in establishing international law instruments protecting human rights. From the second half of the 20th Century till today, there has been a growing interest in human rights and the processes behind changing the behavior of States and society towards it. However, this process moves at a different pace depending on the place and is not always necessarily going forward.

## 1.1 Human Rights and Social Sciences

In academia, human rights issues were primarily related to law studies. This is because, in some countries, the national legislation already guaranteed some rights to its citizens. Negotiating and ratifying human rights treaties connected states and international organizations. Because of this process, not only were legal scholars interested in human rights, but also the field of international relations started to pay attention to it, and political scientists became interested in the relationship of human rights with internal affairs and processes. Other fields of Social Sciences, Sociology, and Anthropology have initially lagged in reaching the study of human rights.

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[6] The human rights treaty monitoring bodies are committees of independent experts that monitor the implementation of the core international human rights treaties; there are ten human rights treaty bodies composed of independent experts of recognized competence in human rights, who are nominated and elected for fixed renewable terms of four years by State parties (United Nations, 2023).

The study of human rights should be a project shared across various disciplines, if not an inherently interdisciplinary field (Morgan, 2009). Legal studies can tell us about the formal mechanisms of implementation that are put in place to monitor states' compliance with human rights law. However, they are methodologically incapable of exploring how socio-political forces influence its implementation (Morgan, 2009). For analysis, sociology should treat human rights as a *social institution* and that *real people* live in a world in which the concept of human rights has a meaning that impacts the acts of people (O'Byrne, 2012).

Sociologists have remained away from human rights studies for a long time for several reasons, including a belief by some that human rights are a tool of Western (mainly American) imperialism and the lack of human rights concerns from the three classical thinkers of sociology – Karl Marx, Émile Durkheim, and Max Weber (Hynes, Lamb, Short, & Waite, 2010). It is important to note that neither one of those thinkers wrote during a time when the concept of human rights was directly in question. The concerns of their times were different, and, as has already been pointed out, human rights, as we know it today, were only established in the late 1940s.

Marx was preoccupied with the expansion of the capitalist system within society and the impacts that could have on the working class. In his book *On the Jewish Question,* he criticized the notion of a right to 'property,' asserted in Article 2 of the French Declaration of the Rights of Man and of the Citizen from 1789, arguing that this supported and entrenched, rather than challenged, class inequalities inherent in the structure of capitalist societies (Hynes, Lamb, Short, & Waite, 2010). In his understanding, some rights, such as the right to private property, could perpetuate other violations.

On the other hand, Durkheim was not directly concerned with the morality of laws (whether they are fair or not and to whom they are directed) but with the social phenomena that created them (Turner, 1993). That means that to comprehend the making of human rights law and whether it becomes a value for society, we must pass through Durkheim's writings.

Max Weber was particularly critical of *natural law* and believed modern secular states should have rational laws grounded on the State (Turner, 1993). Weber had the consolidation of states – the German Republic, in particular – as his main interest. For him,

it was essential to build a public administration and working body that did not exercise its power by traditional or charismatic domination. Moreover, Weber understood that the state created the law – by the legislative power – to address social situations. For him, the law should follow a rational path to solve the issues. Aiming to comprehend social actions, he aimed to understand the reasons and motives for an actor to act in a certain way in the social-political arena.

As the concept of human rights emerged in the aftermath of the Second World War, for different reasons, it was still left aside by many sociologists. Separating rights and putting them against each other – i.e., the alleged disconnection between "first" and "second" generation rights – was the main one. Sociologists correctly thought social and cultural rights were as necessary as political and civil rights. Another challenge was the universality of human rights and how to enforce the same norms for so many different societies and cultures. There was a legitimate concern that the universality of rights could not be a form of imposing, mainly, Western values on other societies. While there is ongoing debate about it nowadays, cultural and values diversity are embraced and protected under human rights law.

The process of globalization with an emerging "global community" became a matter sociologists wanted to study. Moreover, because human rights were part of this process, it could no longer be left aside as it impacted the actions of several social actors. In creating a language framework of human rights, these actors could make claims and demands using human rights as a tool, whether because they believe in it or only for purely political interests. Because human rights are enforceable and enshrined as they are in its principles, and this affects the opportunities available to them and, thus, the actions they take (O'Byrne, 2012).

## 1.1.1 Socialization of Human Rights

With the establishment of the International Bill of Human Rights and countries making pledges to uphold and protect rights, civil society started to organize and push for commitment and compliance. The second half of the last century also experience the creation of several non-governmental organizations (NGOs), civil society organizations

(CSOs), and even social movements dealing with human rights. The emergence of these actors and the new ways they had of organizing social demands increased the interest of sociologists in human rights. Understanding how states, international organizations, and societies rallied around human rights became essential. How they would organize and push for norm implementation and compliance were topics of great concern.

Writing at the end of the 20th Century, Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink are in a post-Cold War world fifty years after the release of the Universal Declaration of Human Rights (UDHR). At that time, few studies have demonstrated the impact of international human rights norms on domestic politics (Risse & Sikkink, 2008). Risse, Ropp, and Sikkink (2008) also wanted to see how these global norms could change peoples' lives. It is one thing to argue that there is a global human rights polity of international regimes and advocacy coalitions. However, it is quite another thing to claim that these norms and regimes have made a real difference in the daily practices of governments (Risse & Ropp, 2008).

To conduct this study, the scholars focused on two rights, called the "central core of rights," which encompasses the right to life (defined as the right to be free from extrajudicial execution and disappearance) and the freedom from torture and arbitrary arrest and detention. These rights are chosen because they are accepted as "universal rights" – not associated with a particular political ideology or system – and are widely institutionalized in international treaties  (Risse & Sikkink, 2008). Hence, if there were no progress regarding these rights in their case studies, it would not be expected to be found in other areas.

The pressing issue was comprehending how these rights are internalized and the impact of transnational non-state actors on this process. They argue that the diffusion of international norms in human rights depends on establishing and sustaining networks among domestic and transnational actors (Risse & Sikkink, 2008). These actors will act differently to pressure the state to internalize, commit to, and respect human rights norms.

The process of internalizing and implementing international norms domestically can be understood as a socialization process (Risse & Sikkink, 2008). This is the process by which principled ideas held by individuals become norms in the sense of collective

understandings about appropriate behavior, which then leads to changes in identities, interests, and behavior (Risse & Sikkink, 2008). It is also about human rights becoming shared values of a country's political elite and society. These changes push the state to become part of a "society of states" – not the whole group of states in the world, but the ones that are part of this system of human rights norms. The goal of socialization is for actors to internalize norms – becoming values and a common end – so that external pressure is no longer needed to ensure compliance. Socialization happens through three processes: adaption and strategic bargaining; moral consciousness-raising, shaming, argumentation, dialogue, and persuasion; institutionalization and habiliatulization.

The first part of this process concerns some instrumental adaptions, meaning that a government that violates human rights tends to make tactical concessions and bargain concessions (economic and political support, for example) with the international community (Risse & Sikkink, 2008). The second part of this process involves the argumentative discourses. The importance here is not only what political actors say but also how the content of their speeches is connected to the actions on the ground. For instance, one political leader might start changing their discourse and include human rights norms but continue to violate them. This would be an adaptation only for instrumental reasons, without human rights occupying a relevant position in the subject's ideology (Risse & Sikkink, 2008).

Moreover, in this part of the process, it also matters how internal and external actors work to influence the political elite regarding human rights. After political actors change their discourses and practices, we enter this process's final phase: accepting and internalizing the norms' validity. However, it is not only one or two political actors but the society accepting the importance of the human rights regime. The norms are "taken for granted" and are part of the state's actions, not being personalized in the opposition or a few political figures.

## 1.2 The Spiral Model of Human Rights Change

To comprehend the operationalization of the socialization process, the authors proposed a *Spiral Model of Human Rights Change* (Risse & Sikkink, 2008). The model

includes: the international community (international non-governmental organizations (INGOs), international human rights regimes and organizations, and "Western States"); the domestic society of the violating state; the links between the internal opposition and transnational networks; and the "national government" of the violating state (Risse & Sikkink, 2008). The base of this model is a process where human rights change happens with pressure from below and above, which can be called a *boomerang effect.* It exists when domestic groups seek INGOs and transnational networks to pressure other states to condemn the violating country and force it to change its behavior (Risse & Sikkink, 2008).

The spiral model builds upon five phases. The first is characterized as state repression when state policy violates human rights. At this moment, the political opposition, local non-governmental organizations, and civil society organizations start mobilizing. They activate international networks to obtain broader support, expecting other states to pressure the government. The second phase is denial, when the state starts trying to prove the allegations made by the opposition, proving that denouncing the violations and putting pressure is taking effect. The third phase are the tactical concessions that a state makes to ease the pressure they are receiving, and it is also the moment that local organizations can stop focusing on gathering external support. The fourth phase is the prescriptive status, when the state decides to participate in international treaties and changes domestic legislation. The final phase is the rule-consistent behavior. In this phase, the state already complies with International Human Rights Law, and its society has human rights as a value and expected end. In the following paragraphs, we address the specificities of each phase.

Phase one is when the state being studied is committing violations, and the internal opposition is too weak and/or too repressed to present a significant challenge to the government (Risse & Sikkink, 2008). The violations can be at different levels, from the extreme of genocide to lower cases that may not be that clear. This phase can last for several years, mainly depending on the force of the domestic opposition and the attention given by the international community (both can vary for many reasons). The moment the opposition can communicate with transitional networks and put the state in the spotlight is when the next phase starts.

After the violating state is included in the agenda of the international human rights networks, the second phase of the spiral model starts. At this point, INGOs start producing materials on the country's human rights issues and working to mobilize – and lobby – other states and societies on the matter. Governments and the public are reminded of their identity as promoters of human rights, and the inconsistencies of the policies of states are pointed out. Some states condemn the violations in a few countries but remain silent when the violations occur in other states (Risse & Sikkink, 2008). The norm-violating government will respond by denying the validity of the international human rights regime and saying that the criticism is an "illegitimate intervention" in internal affairs (Risse & Sikkink, 2008). This phase is essential because as the state tends to deny – whether it is the accusations themselves or the system –the socialization process is already underway, as before, there were only the violations and no response.

With the international pressure growing, the third phase of the spiral continues with tactical concessions from the violating state. The most important effect of this phase is the facilitation of internal mobilizations against the violations and the state making tactical concessions, changing the focus from the international level back to the domestic (Risse & Sikkink, 2008). This phase may move the process forward with the continuous advancement of human rights, or it can result in solid backlash, with more repression from the state, and therefore, the spiral may move backward. This depends a lot on the behavior of the international community, whether it accepts this or not. When there is no repression, this is the moment that the state starts accepting the validity of international human rights norms, which, in many cases, is already a victory. Accepting it opens a door for more and more enjoyment of rights. Accepting the international norms also means that the domestic opposition is taken more seriously and becomes a valid interlocutor with the state, strengthening and empowering these organizations.

The fourth phase is marked by the *prescriptive status*, when the validity of the norms is no longer an issue, although violations may still occur. To understand the situation as prescriptive status, the author proposes four indicators: the state ratifies human rights conventions and protocols; the norms are internalized in the Constitution and/or domestic law; there is an institutional mechanism for citizens to complain about human rights

violations; and the discursive practices of the government acknowledges the validity of human rights norms and engage in dialogue with the opposition (Risse & Sikkink, 2008).

When the state adopts a rule-consistent behavior, we have reached the final and fifth phase. While violations may continue, the norms are internalized, and compliance becomes a customary practice of domestic actors. Another characteristic of this phase is that law enforcement is dedicated to ensuring compliance. It is also possible, at this phase, that the opposition has reached power and now must deal directly with the state structure to address the violations.

The goal of the spiral model is mainly to comprehend not only that ideas matter but also which ones and why they matter to certain political actors (Risse & Ropp, 2008). The interests and preferences of actors involved in violating or protecting human rights cannot be externally given; instead, they must be seen together with the social identities of the actors (Risse & Ropp, 2008). To achieve this goal, they investigate the interactions among actors on four levels: between norm-violating governments and their domestic society (including the opposition); the internal opposition and transnational human rights networks; international organizations, transnational networks, and Western powers, forming an international community; between the norm-violating government and the international community.

After it has been internalized, the state endorsement of a right should express a belief in it and create an impetus for behavior consistent with these norms (Risse & Sikkink, 2008). The moment the state ratified an international human rights treaty was critical for them. However, it was seen as even more critical when translating into actual state policy. They admit that the state is not a "black box" and that once ideas (rights) have become norms, the different state actors (individuals and institutions) might be differently influenced (Risse & Sikkink, 2008). On the other hand, they do not explain how this might occur.

It is essential to consider various criticisms that the spiral model has taken. For example, the issue of including a group of countries in the model, the so-called *Western States*. These countries could and have become – we could argue some already were – norm-violating countries, i.e., the United States of America (Risse & Ropp, 2013). At the

same time, while the first phases of the model are confirmed by many studies, transitioning from phase three to four domestic mobilization proves to be a critical variable, and very few countries have reached the fifth phase (Jetschke & Liese, 2013).

Studies also indicate that the model may be less helpful in understating democratic states. Democracies have tended to be at the forefront in ratification, while nondemocratic regimes have lagged (Simmons, 2009). In these cases, the early phases of the model are usually not so apparent or behave differently than the model expected. A common characteristic of flawed democracies is leaders who deny human rights not based on national sovereignty but arguing that because the people elected them, they are the spearhead of human rights (Jetschke & Liese, 2013). In this case, these politicians tend to claim that human rights are going against democracy and the people's will.

Simmons (2009) argues that scholars of international relations are often pessimistic about the possibility of international law influencing human rights because they focus mainly on interstate relations rather than state-society relations. For her, human rights treaties have a singular property: negotiated internationally but create stakeholders domestically (Simmons, 2009). For that, it is crucial to understand how and why states comply with human rights norms. Each country has a different system of government and internal order. Some democracies are constitutional parliamentary monarchies, while others are presidential republics. While some countries opt for a more centralized government, others have federal power-sharing systems. All democracies have the separation of powers as part of their founding principles. This means that upholding human rights norms is unlikely to be the sole responsibility of only one internal power or government. This complexity of democratic states is precisely what makes them democratic, but it can also pose challenges and opportunities to human rights defenders.

The executive branch is usually responsible for handling foreign policy and negotiating treaties. When a treaty is already in place, the executive branch usually responds to allegations of violations before international bodies. This means that most international pressure may fall upon the national executive branch. For Simmons (2009), the executive branch, which usually cannot set the agenda in the legislative branch – especially in Presidential systems – can use the need for treaty ratification and commitment

to force change in the national law. The Judiciary is far from the executive because it has no part in foreign affairs.

On the other hand, more and more human rights treaties are being used in domestic courts. The use of international law in domestic litigations depends on the country's judicial system. In some cases, international treaties become part of the national legislation just by being ratified, while in others, it requires a legislative action to turn it into domestic law. Both the Spiral Model and the studies by Simmons (2009) perceive democracy as something that countries will conquer and keep. While the latter gives attention to the different branches of power within States, it does not deal directly with the struggle between them and the different power levels.

Shor (2008) presents three flaws of the Spiral Model, with the first being that it is over-deterministic and idealistic. The spiral model assumes that human rights change will always move forward, ignoring the social dynamics that may lead to backsliding in the enjoyment of rights. Treating the human rights situation in a State as homogenous (among all human rights) is another issue (Shor, 2008). Initially, the model studies only two rights, with later usage by the proposing author focusing on other specific rights. However, by choosing to study human rights change and selecting a specific one that can be more respected, other rights being violated by the state may be left aside from the analysis. Finally, not considering security threats and the possibility that these threats can lead to violations is another issue of the model (Shor, 2008).

## 1.3 Multi-level Governance

Multi-level governance is a concept used in integration and regional studies, initially and mainly in the European context. It evokes the idea of increasingly complex arrangements for arriving at authoritative decisions in increasingly dense networks of public and private, individual, and collective actors (Piattoni, 2010). In Europe, in particular, the processes that led to the creation of the European Community (EC) and later the consolidation of the European Union (EU) in the 1990s introduced a form of shared sovereignty (Piattoni, 2010). In some issues, European institutions have decision-making power, not national states. Because this level of shared sovereignty remains more common

in the European context. These network systems of governance engage various levels of government in interactions with public, private, and civil society actors, producing a complex network of relationships between them (Skelcher, 2005).

When most modern states were established, power and decisions were mainly centralized. This happened for various reasons, from ensuring territorial unity and integrity to forming single values that could unite the people creating a national community.

After the French Revolution, the paradigm of state organization moved from one less preoccupied with keeping and protecting the privileges of a particular social class to one concerned with the country's prosperity. One of the main advances of this process was the separation between the three branches of power (executive, legislative, and judiciary). However, the state was still mainly centralized at only one level.

While the Iberian Peninsula, France, Russia, and England had been modern states for a long time, other parts of Europe still had organizations resembling feudalism. Only with the unification of Italy and Germany in the nineteenth century most of the continent fell into this new type of modern state. The tensions created by the competition between these states were also much more significant than before. Centralized states could more easily form vast and robust armies, having more people to fight and a much greater capacity to build weapons. In part, the aspirations of those newly unified states were among the causes of World War I.

On the other side of the Atlantic, the formation of the United States of America in the eightieth century is a testament that centralized power can also challenge the formation and unification of a national state. In this case, the alternative found by the Founding Fathers was federalism. A way of sharing power and competencies between the federal government and other political entities, in that case, the states. The civil war that unfolded in the years after the establishment of the national unity is a good example that, while the division of power helps bring people together, there is still a battle for the shared values and ends of a country because the ultimate ends and values of that community ought to be the same. The federal model adopted in the United States of America has ever since been an inspiration (in some cases, an American imposition) for other nations. Federalism is

understood to be a way to help countries in post-conflict situations and decrease tensions between the parties involved.

Power sharing and decentralization have also been seen as ways to avoid giving too much space for action and power to leaders who could easily overuse it. The experiences of Nazi Germany and Fascist Italy have shown the tragedies that can unfold if politicians obtain too much power within a national unity. Hence, since the end of World War II, centralized authority has given way to new forms of governing. Formal authority has been dispersed from central states to supranational institutions and regional and local governments (Hoogle & Marks, 2010). The traditional separation into branches of power was seen as insufficient to ensure more people could influence political decisions. In Europe, in particular, there was the need to reconstruct entire cities and infrastructure destroyed during the war, and doing so with a strongly centralized government would have been more difficult, as each place had specific needs (Piattoni, 2010).

The processes of rearranging states and sharing powers and competencies initially happened more in some parts of the world, mainly in Europe, but have significantly spread across the rest of the globe. Dispersing governance across multiple jurisdictions is more efficient than central state monopoly and normatively superior, operating at various scales to address the diverse territorial reach of policy externalities (Hoogle & Marks, 2010). This trend can assume different forms and names depending on the context – deconcentration, regionalization, devolution, federalization – but it challenges the centralized nature of unitary states in all cases (Piattoni, 2010).

In 1992, Gary Marks used the term "**multi-level governance**" for the first time as he analyzed the European Union's (then European Economic Community) new structure after a major reform in the late 1980s[7] (Bache & Flinders, 2004). This reform also matched

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[7] The Single European Act (SEA) was signed in 1986 and entered into force in 1987. This legislation expanded the European Parliament's powers and established the direct election of its members. It also gave more authority to the European Council, effectively making it a unified executive branch of the European Community, later the European Union. Not only did the SEA promote more political integration, but it also did so because it had a detailed timetable for creating a single European market by 1993 (Madsen, 2023). To create a single market, the SEA set standards for workers' health and safety, established European research

a changing environment in international relations studies that understood other actors' importance and role in the political processes. The Single European Act (SEA) gave more powers to institutions such as the European Parliament and the European Council to create a single European market. For once, many pieces of legislation directly affecting millions of Europeans in different countries would not be under the responsibility of national parliaments but of the European institutions. This reform marks a moment where other actors, such as international organizations like the then European Community, gained more power and relevance in day-to-day politics. This added a new layer of governance in the European context.

"Multi-level" refers to the interdependence of government operating at different territorial levels, while "governance" signals the growing interdependence between governments and non-governmental actors (Bache & Flinders, 2004). Separating power and competencies at various levels was nothing. However, the events of the end of the twentieth century have led to the development of a particular theory that embraces more actors with multiple paths of decisions and actions.

Multi-level governance as a challenge to traditional state sovereignty and organization. Moreover, it can also create competition between factions within the same country – especially groups that feel they have lost something (culturally, economically, and politically) with the unification process. However, multi-level governance can also respond to these claims and needs. It is a way to give back to sub-state nations and groups the right to decide for themselves (Piattoni, 2010). This makes multi-level governance even more complex because it might give back to some specific regions more power than to others. In Italy, for example, right after the end of the Second War, an issue that had to be solved was the situation of the provinces of South Tyrol, which contained a significant German-speaking population and received more autonomy.

In the early 1990s, not only was the European Union flourishing to an organizational level that resembles the one it has today – taking part in the decision-making

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and technology development strategies and created environmental protection policies (Cowles, 2012). These policies were now under the European umbrella and no longer of the national states.

power from sovereign states – but since the end of the Second World War, international organizations have obtained more importance. From the formation of the United Nations, the series of treaties and international law instruments, the formation of regional systems of protection of human rights – at this stage, mainly the Inter-American within the Organization of American States (OAS), and the European within the Council of Europe, but soon followed by the African Union – are all part of this process. States allowed international bodies to have binding power over events unfolding within their national territory, giving up part of their severity over their issues.

To understand the challenges to the central state order, we must realize that it comes from three different directions. The first comes from above by the international community, which can be represented by international organizations (i.e., the UN, OAS, EU); the second comes from below, that is, the local powers that want more freedom and independence for their affairs; and a third comes from "within" the state and these are the civil society organizations, social movements, and non-governmental organizations. All these forces – that must not be treated as singular entities; on the contrary, usually, there is a lot of diversity and disagreements among them – struggle to operate in the politics, policy, and polity dimensions (Piattoni, 2010).

The tensions and disagreements arise, partly because a multi-level governance structure shares power and competencies between different levels of power and international organizations but also because it includes non-state actors in the decision-making and implementing process. Hence, the multi-level approach is different from the others. While other actors have always tried to influence the state – take the Catholic Church and workers unions as an example – it was mainly after the Second World War and in this new internal organization of the states that non-state actors have gained a more significant role. They were trying to influence the political and decision-making processes and were actively included in many of them. On the other hand, while integrating other actors was a positive catalyst, it was often not democratic, with some positive groups being privileged to the detriment of others.

Multi-level governance research has differing views on how it should be organized between actors and levels, with different consequences in real-life situations. To address

this issue, Marks and Hooghe (2004) proposed two ideal types of multi-level governance. These two types are not the foundations of multi-level governance in practice; on the contrary, they were built upon observing various real-case scenarios.

Type I of the models proposed by Marks and Hooghe (2004) has a system-wide framework with multiple but limited levels of government, and those levels have a more general-purpose jurisdiction. Type I conceives governmental authority distributed between a few tiers of stable, multifunctional bodies with horizontally mutually exclusive spatial and policy domains (i.e., strong boundary integrity) (Skelcher, 2005). Type I also resembles the conventional federal systems, partly because of the politico-historical process through which nation-building imposes order on the space within its jurisdiction, usually by creating a hierarchically ordered system of multipurpose governments (Skelcher, 2005). It is also the type that is more commonly used by international relations academia to explain the changes – not elimination – in the Westphalian sovereignty-based state order (Hoogle & Marks, 2010).

Type II is conceptualized as a fluid, multitiered population of single-purpose bodies with overlapping spatial jurisdictions (Skelcher, 2005). The idea behind this second type is that instead of being served by the (or a) government, the people receive the public services by "industries" with a task-specific competence or jurisdiction (Marks & Hooghe, 2004). It has a flexible design of multiple levels. While the first type also had different levels, they were pre-defined and would spread across the system. In this case, they are not necessarily pre-defined and are created based on the need of each public action (Hoogle & Marks, 2010). Type II still lacks a very well-identified "real life" referent, appearing as an anarchical, fluctuating superimposition of single-purpose jurisdictions (Piattoni, 2010).

As expected in "ideal types," it is hard to find situations where the analysis is straightforward. They often overlap in the way that a more formal type I-like governance organization sometimes opens the way for a more flexible type II. While the conceptual dichotomy between Type I and II is apparent, it is less simple and easy to create processes and structures to regulate and put them to work (Piattoni, 2010). This shows us that multi-level governance does not exclude different types of state organizations. Hence, it is possible to analyze federal systems and others without ignoring the traditional political

theories that have been the foundation of that system. A multi-level governance perspective includes the possibility of other actors being part of the complex system of developing policies and putting them into practice.

## 1.3.1 Civil Society and Multi-level Governance

When the new studies on government and state organization started in the 1990s and introduced the theoretical concept of multi-level governance, the civil society component was a changing factor. It is not because civil society did not attempt to influence the governance processes before but because it was taking a more prominent role. The political changes the world experienced in the second half of the twentieth century made them gain a more relevant role. In Latin America, civil society was a crucial factor in overcoming the military dictatorships that were ending their rule; in Western Europe, civil society was not only pushing for more European integration but challenging several aspects of this process; in eastern Europe, civil society was on the frontlines of the democratization and liberalization processes. In the rest of the globe, civil society has gained more and more space thanks to the development of networks between organizations in other countries.

Civil Society can be understood as that arena of politics where associations of citizens seek, from outside political parties, to shape rules that govern social life (Aart Scholte, 2010). Civil society organizations (CSOs) can be non-governmental organizations (NGOs), workers' unions, and other organizations representing a social group. Many more regularized exchanges between governance agencies and civil society groups transpire via NGOs, with many officials today tending to equate civil society with NGOs (Aart Scholte, 2010). Civil society participation is usually a sign of good democratic governance; however, some organizations are closely linked to political parties and businesses, sometimes creating disagreements with those they claim to represent. Civil society nurtures altruism, decency, generosity, and integrity, but in some cases, it also hosts arrogance, crime, and fraud (Aart Scholte, 2010).

The multi-level perspective applies not only to the state and government bodies, with CSOs also creating different levels of organizations among themselves. Local organizations can be part of more extensive networks that share the same principles and/or

areas of action. Because of the regional specifies of many places, it is usually harder for bigger organizations to lobby and work with local governments, leaving this work for local activists more connected to that sphere of government. In regional settings, some organizations have developed a relationship with the local governments in opposition to policies from a higher level (Aart Scholte, 2010). Meanwhile, more significant organizations can reach international organizations and higher levels of government more efficiently. In those cases, the work of both is vital because one helps subsidize and protect the actions of the other.

The participation of civil society organizations in global governance processes dates back to the start of the twentieth century when the International Labor Organization (ILO) was created with a tripartite structure. The ILO had the participation of states but of two types of civil society organizations: workers' unions and trade organizations. This gave voice and recognition to all actors involved in labor-related issues. The United Nations has also created a mechanism that provides consultative status for NGOs before UN bodies.

The G7 and G20 meetings usually include special sessions for civil society organizations. Of course, the European Union has the participation of these organizations. Still, other regional organizations such as the Southern Common Market (in Spanish, MERCOSUR) and the African Union have also developed ways for CSOs to engage with the organizations and their policies. Civil society can also be credited with the reforms in the Human Rights Mechanisms of the United Nations, pushing for the creation of the Human Rights Council in 2006 and developing and promoting the Sustainable Development Goals (SDGs) (Aart Scholte, 2010).

The rise of civil society organizations in the political process has undoubtedly helped make governance more democratic and participative. These organizations can aggregate opinions and worldviews that may drift away from political parties and other involved actors in decision-making. Political space has been given to people who otherwise tend to be unrecognized and have yet to have their voices heard. The activities of these organizations have also furthered a spirit of constructive negotiation between multiple social actors (Aart Scholte, 2010).

On the other hand, the work of civil society organizations is not always for the best and does not necessarily increase social participation and access to rights. The NGO sector has mirrored patterns of dominance and subordination, tending to be weighted towards countries of the Global North, major urban centers, and Western cultures (Aart Scholte, 2010). Some CSOs, particularly "industrial ones", do not promote any more extensive social interests but are "private" ones (Piattoni, 2010).

Recently, academia has started to take a new approach to comprehend the behavior of CSOs in their advocacy efforts. The transcalar theory of advocacy proposes that actors will strategically decide the scale of their advocacy efforts depending on their goals, not necessarily engaging with international partners and including governments and businesses in their advocacy efforts (Pallas & Bloodgood, 2022). Although this field of study is new, our work resonates with it because it understands that processes of advocacy and change are more complex and can be more locally focused.

## 1.4 A Spiral Within the Spiral: To further comprehend Human Rights

Defining human rights was a long road, and to be precise, it is not over and never will be because the struggle for rights has to be constant. The events that unfolded in World War II were so horrific that many things became unbearable for humanity to accept. It is important to note that while many claim it was unprecedented, it was not. The horrors in Europe had already taken place elsewhere, in the colonies, at the hands of Europeans. The genocide of Jews resembles the genocide of the native peoples in the Americas and the human trafficking and enslavement of millions of people from the African continent. It was the first time Europeans used these abominable techniques against each other.

To bring peace to Europe, in the early 1950s, with the establishment of the European Coal and Steel Community, the seed that would lead to the creation of the European Union was planted. The United Nations became a place for all countries to unite and join efforts. A more international governance was being forged. This process, on the other hand, did have many contractions. Part of Europe still had and worked hard to maintain its colonies

in the Global South. If peace and human rights were for all peoples, spreading these ideas was not easy. The need to work on two different conventions is an illustration of that.

The disrespect for human rights and the international order resonated in many parts of the world. Suppose all people had the right to self-determination. In that case, the struggle for independence in many African countries proves that Europe did not want to take these rights seriously everywhere. The dictatorships in Latin America that enjoyed the full support of the United States and its allies are another testament that, when the interests of states were in question, they would quickly ditch human rights.

While all of this would seem to lead to an analysis of the global system from a realist perspective, in the field of international relations, the truth is that things are much more complicated. The pressure of activists and civil society everywhere pushed the government to act and respect human rights. It was civil society that resisted many violations. Because of civil society's work, many European governments were forced to recognize the horrors happening in Latin America, with later the United States pushing for more democratic governance in the region. It was also the civil society that drove the agenda of the right of independence and self-determination for the people in the African continent forward.

Civil society can be chaotic and diverse in its many forms and beliefs. It is not a monolithic block, and that is very good. Furthermore, we must never forget that the state bears the responsibility to protect and guarantee the enjoyment of human rights. The state has the obligation to ensure a democratic arena, with rules, checks and balances, that allows civil society to thrive.

In this study, we propose to analyze the interactions between different state levels and actors, among themselves and with the international community. We try to understand here that, using the spiral model as a base, we might encounter a spiral within the spiral. A spiral where these different state power levels might start pressuring each other while receiving pressure from the victims, NGOs, CSOs, and the international community. This spiral within the spiral can work as a strategy for both perpetrators to escape, using this complexity to avoid acting and running away from prosecution. Despite this, we need to consider all levels of power for victims and human rights defenders to advocate for better

enjoyment of rights. Focusing solely on the state as an entity without different levels and actors within it or believing that only those directly appointed by the law can act risks ignoring the agency each can have.

In a study about the prevention of torture in the United States of America, Kathryn Sikkink (2013) proved that even countries that have achieved the prescriptive status can commit human rights violations. After the terrorist attacks of 2001, the United States government started a so-called "war on terror," and during that, it did not abide by the rules it should have in preventing the use of torture. The earlier commitment to the anti-torture norms was not internalized by many in the political elite and the public, who have accepted and defended these actions (Sikkink, 2013). The federal government was directly involved with not only promoting the use of torture but also finding ways for those agents involved to avoid prosecution – at home and abroad. However, several officials and NGOs started to put pressure on the US government. The situation only changed with the 2008 elections and a new government, although there was never any legal action by the new administration against those pursuing these techniques (Sikkink, 2013).

The spiral we seek to encounter in the Brazilian case encompasses other levels of government (states and cities) that may not necessarily be very open to Indigenous people, mainly because of local land disputes.

The Spiral Model operates in a context of multi-level governance, where multiple actors use power and exert pressure. The spiral is a way of interpreting this process, and we have proposed comprehending another layer of the multi-level governance process with this approach.

Nowadays, after an unprecedented global pandemic, the rise of far-right movements, and the ignition of conflicts everywhere, we must continue to take all actors into account. Civil society plays a significant role in promoting human rights and peace, which does not mean believing it can also be destabilizing. States may wage war and genocide. However, we must also comprehend that a state is much more complex; after all, multiple layers of state government and various groups are fighting within that structure (even in nondemocratic ones). In this scenario, international organizations may look like

they possess less power or influence. Nevertheless, they are still the ones that can organize a more and more chaotic international scenario.

This study aims to illuminate this scenario by presenting the importance of international organizations, the relevance of civil society, and the complexity of the state. The right to healthcare for Indigenous Peoples in Brazil during COVID-19 is our case study because we expect it will show us a spiral inside the Brazilian state.

## 1.5 Conclusion

This chapter introduced the International Bill of Human Rights, which consists of the Universal Declaration of Human Rights (UDHR), the International Covenants on Civil and Political Rights (ICCPR), and the one on Economic, Social, and Cultural Rights (ICESCR). The development of these mechanisms came after World War II's horrors and under the impact of the Cold War. Furthermore, this chapter examined the importance of other human rights approaches, mainly using social sciences, emphasizing the need for interdisciplinary. Incorporating social science perspectives helps recognize the socio-cultural dimensions of human rights, which are crucial for effective implementation and adherence. With this in mind, we discussed the process of socialization through which human rights norms and principles become internalized within a society, transforming from abstract ideals into concrete standards of behavior and governance.

In addition, we have introduced the Spiral Model of Human Rights Change, which aims to comprehend how countries internalize international human rights values and norms. There are five phases: repression, denial, tactical concessions, prescriptive status, and rule-consistent behavior. This model underscores the role of both international and domestic actors in promoting human rights compliance and the socialization process necessary for such changes.

The spiral model assumes that governance involves different acts, which connects it to multi-level governance theories. This approach describes the distribution of power and decision-making authority across multiple levels of government and the inclusion of non-state actors in the governance process. There are two theoretical ideal types of multi-level governance.

Type I of multi-level governance resembles traditional federal systems with a more structured, hierarchical organization and clearly defined responsibilities. Type II is more fluid and flexible, characterized by overlapping jurisdictions, less hierarchical, more network-based, and involving diverse actors and institutions. One of the critical features of multi-level governance is that it prioritizes supranational and non-state actors, such as CSOs, in the governance process. In addition, we have found that civil society, through its organizations, has a considerable impact on governance by taking action or putting pressure on governments. These organizations can also form networks to help spread awareness of situations such as human rights violations.

To conclude, the chapter proposes a spiral within the spiral that recognizes that within the broader national and international pressures, there are additional layers of interactions and pressures among different levels of government (federal, state, and municipal) and CSOs. In Brazil, these dynamics can create a secondary spiral where state and municipal governments and CSOs pressure the federal government and each other to uphold human rights commitments. This approach further highlights the complexity of multi-level governance and the significant influence of local actors on human rights outcomes.

# Chapter two – Indigenous Resistance in Brazil: a continuous struggle for rights

Chapter Two examines Brazil's Indigenous movement and resistance, focusing on the military dictatorship (1964-1984) period to the present day. The goal is to present Indigenous Peoples' historical and ongoing struggles in Brazil, including the formation of the first national Indigenous organization. The main argument of this chapter is that the organization of the Indigenous movement occurred with the combined effort of different CSOs. This movement has been key in shaping Brazil's legal and political landscape concerning Indigenous rights.

The chapter begins by contextualizing the official policies toward Indigenous people during the military dictatorship, which were characterized by attempts to erase their culture and assimilate. Despite these adversities, Indigenous groups, with the support of various other actors, began to organize and resist these policies. The Constitutional Assembly in the late 1980s marked a turning point for Indigenous rights in Brazil.

Furthermore, the chapter explores the establishment and evolution of the Indigenous Health Subsystem, which addresses the unique healthcare needs of Indigenous communities across Brazil. However, this process took more than ten years after the Constitution came into force until Congress passed a law completing it. In this spirit, the chapter delves into the broader context of Indigenous articulations post-1988 Constitution. It discusses the formation of the Articulation of Indigenous Peoples of Brazil (APIB) in a context different from the one experienced during the dictatorship.

Finally, the chapter underscores the enduring nature of Indigenous resistance in Brazil, tracing its roots back to the colonial era and emphasizing its relevance in contemporary struggles. Indigenous communities' resilience has been central to safeguarding their rights and ensuring their voices are heard in the national and international arenas.

## 2.0 Indigenous movement and resistance in Brazil

Historically, the official policy of Brazil towards Indigenous people has been one of acculturation (Sartori Junior & Cogo Leivas, 2017). There have been multiple attempts – unfortunately, many successful – to destroy the Indigenous culture. Nevertheless, Indigenous Peoples resisted and continue to resist since the arrival of the first Portuguese ship on their shores more than 500 years ago. Because of length and Scopus, we will focus on the political processes from the 1970s, during the military dictatorship, to recent days.

The Indigenous policy of the military dictatorship was based on the paradigm of their eventual disappearance and integration (de M Pontes & Ventura Santos, 2020). While some groups have been able to resist and protect their land, culture, and peoples, many others were culturally extinct or assimilated. The military government placed the "Indigenous issue" at the center of the national defense policy. The armed forces of Brazil recognize the Amazon rainforest as the country's most strategic area due to its vast natural resources and the various borders it shares, and the majority of Indigenous groups that have resisted are located there (Deparis, 2007). The goal of the army was to erase Indigenous culture and incorporate them into the national society. The federal government, controlled by the military, had control over Indigenous matters and the work of federal agencies was integrated with local oligarchies – landowners – that supported the regime (Girotto, 2001).

Despite the military holding a tight grip on power, from the start of the dictatorship, social movements of workers, students, and others have continued to resist in their quest for democracy and rights. In the 1970s, workers were creating larger unions to articulate national actions. Students, despite violence and killings, kept the National Student Union running illegally (after it had been shut down by the military, as one of the first actions after the coup in 1964). The Indigenous movement, while usually locally organized, lacked an organization at a national level that could accommodate the various cultures and groups.

In the need to create a nationwide strategy to advocate for Indigenous rights, the Catholic Church – Brazil's largest religious affiliation – started to play a critical role. Although just a few years earlier, the Church had taken a crucial part in supporting the military coup, in the 1970s, the Church was under the influence of liberation theology. This

new theological approach was a 20th-century Catholic movement in Latin America, applying faith to empower marginalized groups by engaging in political and civic affairs, with a heightened awareness of the "sinful" socioeconomic structures that caused social inequities and active participation in changing those structures (Encyclopedia Britannica, 2024). It was also seen as a tool to bring the Catholic church closer to the people in a time when the number of followers was shriking – mainly to other Christians denominations – and the Church was seen as an institution too far from the reality of most of the population. In several cities, the Church's infrastructure served as a place for meetings, articulations of the resistence, and even shelter for people persecuted by the military regime (Deparis, 2007).

The Catholic church has been a present actor in Indigenous matters since the beginning of the Portuguese occupation. Indigenous people were seen since the 1500s as people who needed to be "saved" and converted to Catholicism. Because of that, despite a historical effort to erase part of the Indigenous culture and convert them, catholic leaders have advocated for their right to the land since colonial times and came into clashes with local powers that wanted to expropriate Indigenous land (Girotto, 2001). In the 1970s, under the influence of the liberation theology, it was established the Indigenist Missionary Council (CIMI, in Portuguese) aimed to promote a new type of missionary action within the Brazilian Catholic Church, seeking to break with the traditional model of evangelization in order to support Indigenous communities in the protection of their territories (de M Pontes & Ventura Santos, 2020).

The work of CIMI is essential because, if, on the one hand, the Indigenous movement had difficulties in creating a nationwide articulation, the Catholic Church, on the other hand, was spread across Brazil and could connect parishes from different parts of the country (Deparis, 2007). With the connection between parishes, priests, bishops, and Indigenous leaders, the CIMI started organizing "Indigenous Assemblies," a place for the Indigenous people to come together and debate the issues they faced and the country's political situation (Lopes, 2011). With time, these assemblies expanded, allowing different Indigenous group leaders to meet and articulate their work (de M Pontes & Ventura Santos,

2020). The efforts taken by the CIMI are a highly positive example of dialogue and action between CSOs and the affected population.

The articulation between the Indigenous Peoples and non-Indigenous people continued in the final years of the 1970s. In 1978, the military dictatorship proposed an "Emancipation Decree" that would remove the special status the Indigenous people had in the legal framework and, most importantly, strip out the protections they had for their land and culture (de M Pontes & Ventura Santos, 2020). Many organizations, including academic organizations and workers' unions, resisted this proposal and supported the Indigenous people.

In 1980 the aftermath of the successful movement against this the emancipation decree, many Indigenous leaders decided to create the Union of Indigenous Nations (UNI, in Portuguese) (Deparis, 2007). This was only possible because multiple CSOs worked together, side by side, with the Indigenous people to make it possible for Indigenous leaders to travel and meet (Girotto, 2001). Despite this considerable effort, given the challenges of operating at a national level in a country with continental dimensions, the UNI lost its influence, and nowadays, the leading national Indigenous organization is the Articulation of Indigenous Peoples of Brazil (APIB, in Portuguese), created in 2005 (Carneiro da Cunha, 2018).

## 2.1 Indigenous People and the 1988 Constitution

With the advent of the Constitutional Assembly in the second half of the 1980s, the Indigenous movement started to organize and push for their rights to be included in the text. At first, UNI, along with academics – mainly from Anthropology and Law – proposed a "minimal program" to be adopted and suggested it to the Arinos Commission[8], which was working on the format of the new constitution (Lopes, 2011). Although the

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[8] Provisional Commission for Constitutional Studies, created by then-Brazilian president José Sarney. The group became known as the 'Afonso Arinos Commission', as its president was the jurist, former federal deputy, and former senator Afonso Arinos de Melo Franco (Agência Senado, 2008). Not devoted only to Indigenous issues, the commission gathered several scholars and made a pre-draft of the new Constitution. However, Sarney chose not to send the work of the Commission to the Constitutional Assembly.

Constitutional Assembly officially ignored the work of this commission regarding Indigenous rights, it had the critical role of creating proposals that advocates later took to the Assembly. UNI had tried to elect Indigenous leaders to the Constitutional Assembly; however, despite launching candidates in different states and under various political parties – under Brazilian law, to be a candidate in any election, it is mandatory to be a political party member – no Indigenous leader was elected.

While this work will not focus specifically on the advocacy efforts taken by the Indigenous movement during the Constitutional Assembly, mainly because of a matter of scope and space, it is important to register that the articles concerning Indigenous rights were written under immense pressure and mobilization of the Indigenous Peoples (and a reaction of those against it). One of the primary advocacy efforts of the Indigenous organizations during the Constitutional Assembly was ensuring that Indigenous matters should be a responsibility – a competence – of the federal government. Historically, local powers are contrary to Indigenous rights and work against this population because it is in the municipalities and the states that landowners and land grabbers are more able to excerpt power (Carneiro da Cunha, 2018).[9] This was a significant victory for the Indigenous people.

> The text eventually adopted by the Constitutional Assembly in its article 231 was:
>
> *Indigenous people shall have their social organization, customs, languages, creeds and traditions recognized, as well as their original rights to the lands they traditionally occupy. The Union is responsible for demarcating such lands, protecting and ensuring respect for all of their property* (Brasil, 1988).

An important aspect of this article is that Indigenous Peoples have been recognized as the traditional occupiers of the land, meaning that this possession preceded the state. The article also extended the framework by focusing on the land and the cultural aspect of the

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[9] In her work, Carneiro da Cunha (2018) delves deeper and shows that in 1834, the then Empire of Brazil delegated to the provinces the responsibility to legislate and decide on Indigenous matters, mainly the right to land, and the expropriation taken by provincial authorities was clear. Despite changes throughout the years, since the 1934 Constitution, Indigenous matters have been a competence of the federal government.

Indigenous Peoples. In many ways, the process and the Constitution of 1988 itself are considered a victory by and for Indigenous people.

## 2.2 Indigenous Healthcare and the 1988 Constitution

The 1988 Constitution is historic because it enshrined many fundamental rights in its text. Among many, it proclaimed healthcare as a right of all peoples within the Brazilian territory and an obligation of the state. On a national level, it created the Unified Healthcare System (SUS, in Portuguese). When the Constitution was promulgated and with the need to organize this newly created system, the government promoted national conferences to define different actors' roles.

The SUS is the broadest, entirely free-of-charge healthcare system in the world. While the Constitution did not address specific issues such as the system's organization and specific support for vulnerable groups, it ensured that every person on Brazilian territory had the right to free healthcare, and the state had an obligation to provide it. This includes even foreigners, despite their legal status. The Constitution of Brazil defines as a universal right to have access to comprehensive care at all levels (such as primary, secondary, and tertiary); and there is also a pillar of social participation in SUS through creating and monitoring the implementation of health policies through federal, state, and municipal health councils (Columbia University: Mailman School of Public Health, 2024).

To organize this newly created system and decide the responsibilities each level of government would have, in 1992, a national healthcare conference was organized. The 9th National Heath Conference, in 1992, was launched with the slogan 'Municipalization is the way forward!' (de M Pontes & Ventura Santos, 2020). The healthcare movement – composed mainly of healthcare workers – wanted to decentralize and municipalize the primary services, claiming it would allow for a more specific policy for each city's different needs. This movement was able to indeed create a decentralized system of healthcare.

While the Federal government retained multiple competencies regarding the SUS, the delivery of direct care was the responsibility of municipal and state governments.[10]

The first National Indigenous Health Conference occurred in 1986, a year prior to the start of the Constituent Assembly, and is an important event in formulating what would become the Indigenous Health Subsystem (D. Cardoso, 2015). The Indigenous movement reacted strongly to the 1992 Conference seeing the Municipalization of care as a threat. They wanted a specific regulation for their right to healthcare, bringing back the issue of letting Indigenous matters under the control of local authorities (de M Pontes & Ventura Santos, 2020). Protesting against the slogan of the conference, Indigenous leaders even made a banner reading: 'Municipalization is not the way forward for Indigenous health' (de M Pontes & Ventura Santos, 2020).

One year later, in 1993, the II National Indigenous Health Conference approved the establishment of an Indigenous Health Subsystem, creating the Special Indigenous Health Districts (DSEIs, in Portuguese) (D. Cardoso, 2015). The conference also clearly stated that the responsibility for Indigenous healthcare is assigned to the Federal Government (de M Pontes & Ventura Santos, 2020). A few years later, in 1999, the "Arouca Law" formally created this structure. Initially, a foundation within the Health Ministry was responsible for running the DSEIs. However, this model was inefficient, and the Indigenous movement and other NGOs pressured the creation of a Special Secretary of Indigenous Healthcare (SESAI, in Portuguese) that was considered a way forward (Sartori Junior & Cogo Leivas, 2017).

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[10] It is important to note that although municipalities and states had the main obligations regarding providing care, in some specific cases, the federal government retained a few tertiary care-level institutions, such as military and university hospitals and research centers.
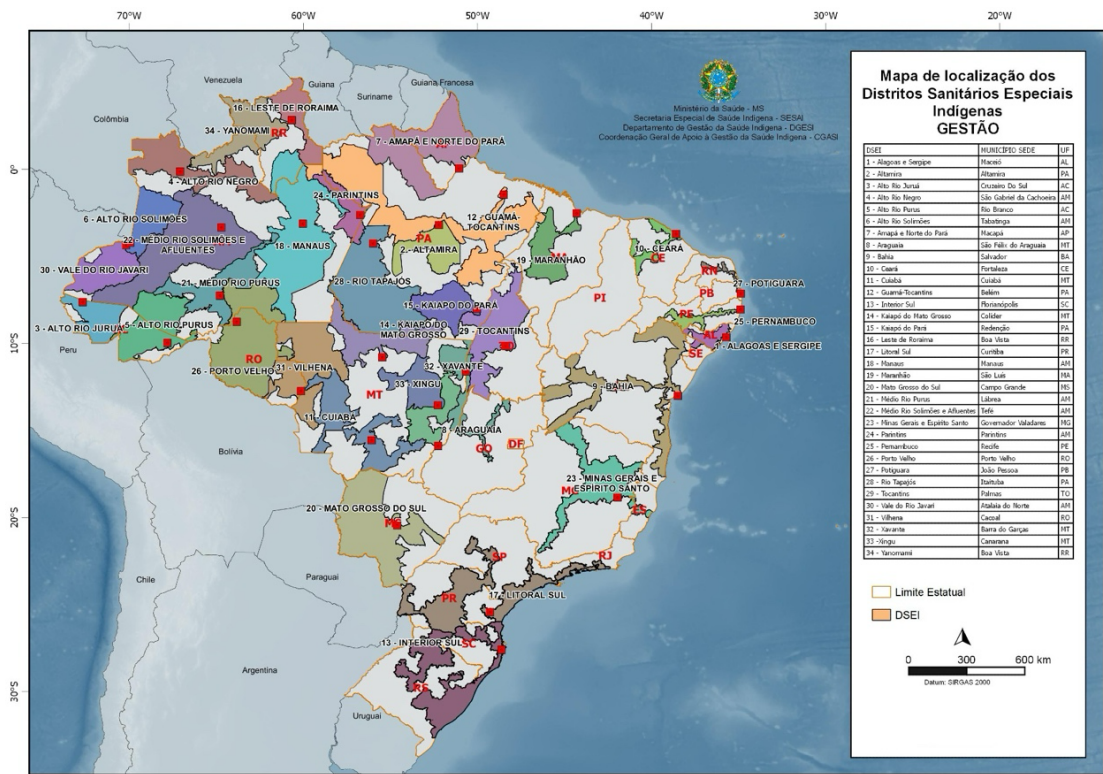
*Figure 1: Map with the location of the Special Indigenous Health Districts in 2023. Source: Health Ministry of Brazil.*

There are currently 34 Special Indigenous Health Districts in Brazil. They are spread across the entire country (see Figure 1). Their areas of coverage do not follow Brazilian state borders. Their coverage area usually follows regions that have recognized Indigenous land, usually with Indigenous groups that are part of the same cultural family. Each district has a director appointed by the federal government, and it can also independently decide its policies and approaches, considering the cultural aspects of the population under its territory and the different environmental diversity of each region. Usually, the districts have primary healthcare stations located within or close to where the Indigenous Peoples live. These places provide primary care. In addition, bigger stations offer secondary assistance and are usually located near the closest city. Providing tertiary care, there are the Houses of Indigenous Health, which is also the city that hosts the administrative structure of the DSEI. This city is usually an urban center within the area of district coverage.

## 2.3 Indigenous Articulations After the Constitution

After the victories achieved by the Indigenous movement during the Constitutional Assembly and the establishment of the Indigenous healthcare system, the challenges of maintaining a larger organization persisted and UNI lost its relevance. In a democratic system, it is easier to express discontent and advocate for their rights, but that doesn't guarantee that the governments succeeding the dictatorship are necessarily supportive of the Indigenous cause.

It is important to note that, in the early 1990s, Brazil was still a very young democracy. The first presidential elections in 1989 led Fernando Collor de Mello to the presidency. Although historical because it was the first time since the 1960s that a president elected by the people was taking power, the excitement would only last for a while. Following economic turmoil and several corruption scandals, Collor was the first president elected and the first to be impeached. Despite this, his government recognized one of the largest Indigenous lands, the Yanomami, on the extreme northern border of Brazil with Venezuela. A decision that can be attributed mainly to the fact that in 1992, Brazil hosted the UN meeting on the environment, ECO 92, in Rio de Janeiro, and the government wanted to show some concrete action (Lima, 2015).

However, the tense political situation created by the several scandals during Fernando Collor's presidency delayed several needed reforms and the implementation of several policies that the constitution demanded. Take Indigenous healthcare; the encounter in 1992 proposed and organized the Indigenous healthcare sub-system, but only years later, that would be approved. Following Collor's impeachment, Itamar Franco, his Vice President, took office until the end of his four-year term.

Fernando Henrique Cardoso (known as FHC), a prominent sociologist, took office in 1995. In his first year, he faced challenges with Indigenous rights. FHC halted the recognition of Indigenous land and failed to address invasions of established territories (Rezende Jr & Mello, 1995). It was also during his government that the Arouca Law (mentioned in the previous section) was approved by Congress and came into force. Initially, his government welcomed NGOs and organizations interested in shaping

Indigenous policies, but these organizations were required to implement state policy instead of serving as observers and supporters (Lima, 2015).

With the election of Luiz Inácio Lula da Silva (known as Lula) in 2002, there was undeniable excitement among the Indigenous Peoples. It was also the first time in Brazil's history that the center-left would govern. His party, the Workers Party (the PT, in Portuguese), has historically supported the causes of the Indigenous people since its foundation in the early 1980s. Despite all the excitement, Lula failed to meet the expectations. To be able to govern, he had to form alliances with members of the right wing connected to the interest of the agri-business (Sauer, 2017). Those politicians saw Indigenous Peoples as a problem for the expansion of land to be used in massive monoculture agriculture and the creation of animals.

After the failure of the Union of Indigenous Peoples (UNI), the Indigenous movement has lacked a national organization. During this period, the CIMI and other non-Indigenous organizations carried out nationwide campaigns. In Lula's government era, several regional Indigenous organizations began organizing the Free Land Camp (Acampamento Terra Livre in Portuguese). These organizations would bring Indigenous Peoples to Brasília for a week to protest and urge Congress and the Federal Government to address their demands. In 2005, at the Free Land Camp, several regional organizations decided to establish the Articulation of Indigenous Peoples of Brazil (APIB in Portuguese). According to its history page:

> *APIB is an instance of a national reference for the Indigenous movement in Brazil, created from the bottom up. It brings together our Indigenous regional organizations and was born to strengthen the unity of our peoples and the articulation between the different Indigenous regions and organizations in the country, in addition to mobilizing Indigenous Peoples and organizations against threats and aggressions against Indigenous rights.* (APIB, 2024)

APIB is an umbrella organization for regional Indigenous organizations, which also serve as an umbrella for local organizations and leaders. APIB is noteworthy for its

distinction from other national organizations, such as the CIMI, because Indigenous Peoples run it.

Dilma Rousseff won the 2010 presidential election, and the Workers Party remained in power. Dilma and the party faced even more troubles with Indigenous Peoples during her government (Ribeiro & Morato, 2020). The construction of the Hydropower Plant of Belo Monte in the Amazon led to several protests from both environmental and Indigenous activists. Although Rousseff was reelected in 2014, her second term was halted due to impeachment in 2016, with Michel Temer taking office. His strongly contested short-term presidency (2016-2018) placed Indigenous people in an even more complicated situation because the government strongly relied on support from agribusiness (Cunha, et al., 2017).

After Rousseff's government, the PT and the Indigenous distanced themselves. In the 2018 elections, Sonia Guajajara, one of the coordinators of APIB, was a candidate for vice president with Guilherme Boulos, both members of the Socialism and Freedom Party (PSOL, in Portuguese). During the years Bolsonaro has been in government, the Workers Party has managed to reconnect itself with the Indigenous movement. During the campaign leading to the 2022 elections, Lula once again ran for president with the PT and pledged to create – for the first time in Brazil's history – a Ministry of Indigenous People with an Indigenous minister. After being elected, Lula confirmed the creation of the Ministry and appointed Guajajara as its minister.

## 2.4 Resisting for Over 500 Years and On

Brazil has been inhabited for most of its history by what we now refer to as Indigenous Peoples. Various groups and cultures used to live across the vast territory that now comprises Brazil. After arriving on the shores, the Portuguese thought the native peoples living there were primitive. The fundamental difference between them was that their social logic could not fit into capitalism, the mercantile version carried by the Portuguese occupiers, and the current neoliberal one.

Indigenous people were, from the beginning, subjected to multiple inhumane treatments, from mass killings to the continuous rapes, mainly on Indigenous women. As the years passed, the Portuguese occupiers had different interests in what they wanted to

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do with the Indigenous people. It is what "they wanted to do" because the Portuguese never saw this population as a group that could self-organize and be independent; for them, they were nothing more than something else to be explored and converted to Catholicism. While the Catholic Church allowed and supported the human trafficking and enslavement of the peoples from the African continent, it did not allow the same for the natives and Indigenous Peoples of the Americas.

It is since the start of the Portuguese occupation and colonization that Indigenous Peoples have struggled to have their right to land respected. While the court of Lisbon only wanted to extract whatever they could from the land, Indigenous people did not see the land as a tool to accumulate more wealth but as a part of themselves. Since those times, local oligarchies in different areas of the territory have been in conflict with Indigenous groups.

Most of these oligarchies continue to be influential until the present time. The independence of Brazil was not a struggle against Portuguese power but a way to better organize the possessions of the royal family, as it was the heir to the Portuguese throne who declared the country's independence and became Brazil's first emperor. His daughter later became queen of Portugal. If the independence did not profoundly change the political elite of Brazil and those who had power, the Republic only brought to the equation a power that was absent in the independence: the armed forces.

Recently freed enslaved people of African origin did help in the struggle for the Republic. Regardless, this one never cared about giving them any rights, and the same happened to the Indigenous people. From the start of Portuguese occupation, these populations have continued to be marginalized. Landowners who formed local oligarchies and the army were the prominent members of the political elite and have continued to be despite the advent of the Republic, with the latter gaining even more power.

After World War II, Brazil actively participated in the efforts to create the United Nations and advance multilateral organizations. Brazilian protagonism is illustrated every year at the high-level sessions of the General Assembly, and since the first one, Brazil bears the responsibility for opening it. However, any more significant role internationally, and particularly in human rights, was hindered by the military coup of 1964. That year, the

Brazilian armed forces, with the decisive support of the United States – among many actions to ensure the coup's success, the US Navy placed an entire fleet on the Brazilian coast - took power and maintained it for over 20 years. The military government, however, not only enjoyed the strong support of the Americans but also various factions of society, particularly business leaders, landowners, and a significant part of the Catholic Church.

The military government, with tortures, killings, and a total omission regarding fundamental rights such as access to food, healthcare, and education, was a master in violating human rights. It was also very clever in not signing any human rights instrument. In its fight against a false "communist threat," the government continued to develop a brutal form of capitalism where neither social nor civil rights were protected.

Despite the brutal attacks of the military government, social movements became more organized and started working not only to restore democracy but also to safeguard human rights. This work was not done only by the pressure of other states, but it happened due to the work of many non-state actors. This followed the international pattern of the second half of the 20th century, which saw new actors playing significant roles in social-political outcomes.

The Constitution of 1988 marked Brazilian history because, despite many setbacks, a soft coup in 2016 and a violent coup attempt in January 2023, it opened the longest democratic period in the country's history. Although considered one of the Constitutions granting more rights to its citizens, implementing these rights has been challenging. Several social movements continue working to implement all the constitutional articles. Focusing on the rights of Indigenous Peoples, successive governments often failed to support Indigenous rights and implement necessary reforms fully, particularly in healthcare and land demarcation.

The complexity of ensuring Indigenous rights goes beyond the federal government's capacity and requires actions from all levels and branches of power. However, as the following chapters will show, during Bolsonaro's presidency, there was a complete disregard for the federal system and the rights of Indigenous Peoples. Despite everything, the Indigenous movement has resisted as it has continuously since the first Portuguese ship arrived.

## 2.5 Conclusion

This chapter examined Brazil's Indigenous movement and resistance from the military dictatorship era (1964-1984) to the present. This chapter underscored Indigenous groups' resilience and persistent efforts to protect their rights and cultural heritage despite severe adversities.

During the military dictatorship, the official policies aimed to erase Indigenous culture and forced assimilation. However, with the support of various CSOs, Indigenous groups organized and resisted these oppressive policies. Although short-lived, the establishment of the Union of Indigenous Nations (UNI) in the late 1970s laid the groundwork for future national-level organizations. The chapter also discusses the critical role of the Catholic Church, mainly through the Indigenist Missionary Council (CIMI), in supporting Indigenous resistance during the dictatorship. These efforts culminated in significant milestones, including Indigenous rights in the 1988 Constitution. A significant element in this process was the need to concentrate Indigenous matters on the federal government, given the historical disputes between local powers connected to landowners. The chapter elucidates that a more local and regional approach to Indigenous rights did not seem ideal.

In addition, the chapter discusses the process of establishing the Indigenous Health Subsystem, which took over a decade to become a reality. Formalized with the "Arouca Law" in 1999 and later improved with the establishment of the Special Secretary of Indigenous Healthcare (SESAI), the subsystem addresses the unique healthcare needs of Indigenous communities, demonstrating the ongoing struggle for adequate healthcare provisions.

In addition, the chapter also provided information on Indigenous matters from Fernando Collor de Mello, the first directly elected president after the dictatorship until Jair Bolsonaro. Under Collor's presidency, despite political turmoil and an eventual impeachment, the government recognized the significant Yanomami Indigenous land in 1992, motivated partly by the desire to present a progressive image during the UN's ECO 92 conference in Rio de Janeiro. Fernando Henrique Cardoso's presidency in the mid-1990s

saw both progress and setbacks for Indigenous rights in a period that witnessed increased involvement of NGOs in designing Indigenous policies.

The 2002 election of Luiz Inácio Lula da Silva brought hope for the Indigenous movement, given his Workers Party's historical support for it. However, Lula's administration faced significant due to political compromises with agribusiness interests. During his government, in 2005, the formation of the Articulation of Indigenous Peoples of Brazil (APIB), which became the leading national Indigenous organization, marked a significant development. Dilma Rousseff's presidency continued the Workers Party's efforts but faced intense opposition, particularly with the controversial Belo Monte Hydropower Plant project, which drew significant protest from Indigenous and environmental groups. After Congress removed Dilma from power, Michel Temer's short-term presidency was marked by increased challenges for Indigenous rights due to his substantial reliance on agribusiness support. In the end, the chapter introduces Jair Bolsonaro's disregard for Indigenous rights.

# Chapter Three – The Federal Negligence

This chapter's central goal is to critically analyze the conduct of Jair Bolsonaro's government during the COVID-19 pandemic, with a particular focus on the implications for Indigenous populations in Brazil. It will provide a detailed account of the federal government's actions and inactions. The main argument of this chapter is that Bolsonaro's approach to the pandemic demonstrates gross negligence. Bolsonaro's administration repeatedly downplayed the severity of the pandemic, resisted scientific recommendations, and failed to implement necessary public health measures. This neglect was particularly detrimental to Indigenous communities.

The chapter highlights key events and decisions regarding the pandemic in general, including the Brazilian Supreme Court ruling that federal, state, and city officials have a role in providing healthcare and implementing measures to combat the pandemic. Moreover, this chapter will explore how Bolsonaro's policies and actions represented a broader threat to democracy and the rule of law in Brazil. His actions exacerbated tensions between different levels of government and undermined the country's federal structure.

The chapter sheds light on Bolsonaro's stance on Indigenous rights, which aggravated the pandemic for these communities. His administration not only neglected to provide adequate healthcare resources but also actively undermined efforts to protect Indigenous lands and rights, making these populations more susceptible to the virus. A major development during this period was the legal action taken by the Articulation of Indigenous Peoples of Brazil (APIB), which filed a case before the Brazilian Supreme Court. The Supreme Court ruled in favor of APIB. This lawsuit has historical and political repercussions that will be detailed in this chapter.

## 3.0 Bolsonaro and COVID-19

In January 2020, the world started hearing news about a respiratory virus rapidly spreading in China. Just a few weeks later, in March of that same year, most of the world was closing borders, imposing lockdowns, and trying to expand the healthcare system's capacity. On the 11<sup>th</sup> of March 2020, the World Health Organization (WHO) officially declared COVID-19 a pandemic. It became the fifth deadliest pandemic in history and the

first to cause a major disturbance in society since the Spanish Flu pandemic at the start of the last century (WHO, 2024).

The virus arrived in Brazil in February and started to spread across the country. From the very first moment, Jair Bolsonaro downplayed the severity of the disease and the need for measures to prevent the circulation of the virus. On the 24th of March, Bolsonaro made a special address to the nation that was ordered to be broadcast on all public and private television and radio stations. The following are parts of his speech.

> *(…) They (the media) spread the feeling of dread, with the main focus being the announcement of a large number of victims in Italy, a country with a large number of elderly people and a climate completely different from ours. A perfect scenario, enhanced by the media, for true 'hysteria' to spread throughout our country.*
>
> *(…)*
>
> *A few state and municipal authorities must abandon the 'scorched earth' concept, such as transport bans, business closures and mass confinement. What is happening in the world has shown that the risk group is people over 60 years of age. So why close schools? Fatal cases of healthy people under 40 years of age are rare.*
>
> *(…)*
>
> *In my particular case, due to my 'history as an athlete', if I were infected by the (corona)virus, I wouldn't need to worry, I wouldn't feel anything, or I would, at most, be affected by 'just a little flu or a cold' (…).[11]*

This was just the start of a series of statements that would include imitating a person dying without air, accusing local authorities of acting as dictators, saying that some people

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[11] The full speech is available, in Portuguese, in UOL Notícias. *"Gripezinha": Leia a íntegra do pronunciamento de Bolsonaro sobre Covid-19.* (2020, March 25). UOL Notícias. https://noticias.uol.com.br/politica/ultimas-noticias/2020/03/24/leia-o-pronunciamento-do-presidente-jair-bolsonaro-na-integra.htm

had to die, and promoting drugs known to be infective. Nevertheless, what stands out in one of his first official statements regarding the pandemic is his complete ignorance of the actual situation in Italy and Europe at that time. It is important to note that the first cases of COVID-19 registered in the country were in Brazilians who were spending their holidays in Italy. The second critical point of this speech concerns the muti-level governance in Brazil. In the first month of the pandemic, Bolsonaro was already attacking state and city authorities on what would prove one of the most difficult tests for the federal system in Brazil.

A day after this speech, talking to the press, Bolsonaro went further denying the severity of the situation and continued attacking mayors and governors. He said social distancing measures would "create an economic crisis and unemployment that could lead to social conflicts and pose a risk to democracy." He also said that he hoped this virus "doesn't kill anyone" but that other viruses have killed and there wasn't "all this commotion." The president continued and openly said that:

> *What they (a few governors and a few mayors) are doing in Brazil is a crime. They are destroying Brazil; they are destroying jobs. And those guys who say 'ah, the economy is less important than life'. 'Pale face' (referring to the governor of São Paulo) do not dissociate one thing from another.[12]*

At the beginning of April 2020, as the virus continued to spread across Brazil, Bolsonaro started an open feud with his health minister, Henrique Mandetta. Like most governors, the minister wanted to follow WHO guidelines and promote social distancing measures. Bolsonaro strongly disagreed and wanted to promote something he called "vertical isolation," which meant only the elderly would be asked to remain home. The rest of the population should "continue to live normally." Bolsonaro claimed that social distancing measures would cause severe damage to the economy, something he openly

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[12] The full comments, in Portuguese, are available on: Jovem Pan. (2020, March 25). Bolsonaro: "O que alguns poucos governadores estão fazendo é um crime." Bolsonaro: 'O Que Alguns Governadores Estão Fazendo É Um Crime' – Jovem Pan. https://jovempan.com.br/noticias/brasil/jair-bolsonaro-governadores-coronavirus-critica.html

considered "even more serious than the deaths caused by the coronavirus." On the 16[13] of April 2020, Mandetta announced that Bolsonaro had fired him.[13] This would also mark the start of a chaotic situation at the Health Ministry. Mandetta was fired one day after a key Supreme Court ruling on the competencies of federal, state, and municipal governments regarding COVID-19 measures (Supremo Tribunal Federal, 2020).

On March 20th, introducing a provisional measure (which has a force of law from the moment it is published, needing congressional approval within 120 days after the president signs it), Bolsonaro tried to keep the decisions concerning the pandemic concentrated in the federal government (Amato, 2020). This measure was challenged at the Supreme Court by parties in the opposition, which decided all three levels of government had the power to legislate and decide policies concerning healthcare and, by extension, COVID-19. The Court's ruling is a significant clarification on Brazilian federalism, affirming that while the federal government can and should establish general health guidelines and is in the position to coordinate efforts, it cannot override more rigorous local measures (Godoy & Tranjan, 2023). This underscores the concurrent power of states and municipalities in handling public health emergencies. The decision also asserted the power of local governments to enact measures based on their specific needs without federal interference.

Bolsonaro would improperly use this Supreme Court decision to justify his decisions that have helped spread disinformation, left many without proper medical care, delayed access to the vaccines, and made Brazil one of the epicenters of the pandemic.

After firing Mandetta from the Health Ministry on April 17th, 2020, Bolsonaro named Nelson Teich, a doctor without political experience, to run things (Phillips, 2020). However, he lasted less than a month in office, departing on May 15th. Once again, the president had issues with the science-based approach the new minister was trying to pursue. With Mandetta, the issue was the social distancing measures (that ended up being decided

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[13] More information on the process of firing Mandetta from the government is available on BBC News. (2020, April 16). Coronavirus: Bolsonaro fires health minister over pandemic response. https://www.bbc.com/news/world-latin-america-52316150

by governors and mayors); with Teich, the main problem was chloroquine as a drug to prevent or treat COVID-19 (Phillips, 2020). Initial studies had indicated that the drug could be effective, but at that point, the WHO and the scientific community reached the consensus that it was not. Bolsonaro claimed that people would be protected by taking it and that other protection measures (i.e., social distancing and the use of protection masks) were no longer necessary.

Being unable to find anyone from the medical or science field to run the Health Ministry during the worst pandemic in a century, Bolsonaro kept the interim minister in his position. Eduardo Pazuello, an army general without any relevant prior experience, who was the executive secretary of the Health Ministry, became the minister as soon as Teich left. Only four days after Teich left, Pazzuello signed a norm allowing chloroquine to treat COVID-19, disregarding WHO recommendations[14]. Pazuello also did not retire himself from the army, meaning he was still an active member of the Brazilian Armed Forces while running the Health Ministry.

With no indication of attempting to mend the fences Bolsonaro broke with governors and mayors, Pazuello postponed the publication of daily updates on the number of cases and deaths in the first week of June (Mendes, 2021). This was done to avoid it being reported on the evening news. The strategy failed because networks started running special breaking news reports when the numbers came out later in the evening. On June 6, the Health Ministry deleted all the numbers and data from its website, announcing that from now on, it would only report the daily number of cases and deaths (without providing information on the total). This decision was criticized by news organizations, science associations, and journalists. The Council of State Health Secretaries reacted strongly and started aggregating the information (Barifouse, 2020). A group of news organizations, including the three largest newspapers and the largest TV network in Brazil, announced an unprecedented pool of news organizations working together to obtain data from local

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[14] The Brazilian service of the BBC prepared a special report on the relationship between Bolsonaro and chloroquine. BBC News Brasil. (2021, May 21). A história de Bolsonaro com a hidroxicloroquina em 6 pontos: de tuítes de Trump à CPI da Covid. https://www.bbc.com/portuguese/brasil-57166743

authorities and provide reliable nationwide data to the public (G1, 2020). This is another testament to Bolsonaro's government feud with local authorities and the press.

During the year 2020, Bolsonaro continued to excuse himself and his government from fighting the pandemic. He kept spreading false information on the existence of a cure (chloroquine) and about the use of masks. In an infamous moment, when he was infected with COVID-19, he offered a box of ineffective medicine to one of the animals at the presidential residence; the animal walked away (UOL Notícias, 2020). At the beginning of 2021, while most of the Western World had already started to apply the first doses of the COVID-19 vaccines, Brazil still had none. According to documents revealed only a month after, in August 2020, Bolsonaro refused to buy the Pfizer vaccine, even though the company offered it to the Brazilian government at a much lower price and wanted to use the country as a "showcase" of its effectiveness (Reuters, 2021). Polls showed that Brazil had a vaccine hesitancy rate much lower than most countries; at the same time, Brazil's national healthcare system already ran the world's largest public vaccination program.

At the beginning of January 2021, the Amazonian city of Manaus was going through a massive outbreak. Located in the heart of the rainforest, the city is the capital of the state of Amazonas and has a population of over 2 million people. On the 8th of January, the Health Ministry was informed that the city could be without enough oxygens for its hospitals; at the time, this information did not come out to the public at the time and was later revealed by a parliamentary investigation (Agência Pública, 2021). On the 11th of January the Ministry tried to implement the use of chloroquine as a preemptive treatment in the city of Manaus (Folha de S. Paulo, 2021). On the 14th of January, people died of asphyxiation because the city did not have enough oxygen to supply to the hospitals (CNN, 2021). The level of desperation was so great that the governor of Amazonas thanked Venezuela, a country suffering from years of economic sanctions and political turmoil, for offering oxygen (O Globo, 2021). Bolsonaro blamed the situation in Manaus on the governor and the mayor.

Also, in January, another example of the tense relations between Bolsonaro and state governors. After deciding not to buy the Pfizer vaccine, the federal government

focused solely on the vaccine developed by AstraZeneca with Oxford University. On the 17th of January, the national health regulatory agency approved using the vaccines developed by AstraZeneca and the Chinese laboratory Sinovac. While Brazil still had no doses of the first ready to use, the vaccines from Sinovac had been purchased by the state of São Paulo in an agreement that also involved the production of Sinovac's vaccine by Butantan Institute – a scientific research and production center ran by the state of São Paulo. Initially, the vaccines would only be used in the state, with some municipalities from other states making direct deals to obtain doses to start vaccinating their residents. There were fears of a huge inequality in the access to vaccines within the country, and eventually, the federal government purchased all the vaccines from the state of São Paulo.

In March 2021, despite vaccines being already available, Brazil started to face the biggest outbreak since the beginning of the pandemic. That same month, on the 23rd of March, Bolsonaro appointed Marcelo Queiroga to be the new health minister. Before becoming minister, Queiroga was president of the Brazilian Cardiologists Association (BBC News, 2021). Despite the imminent collapse of the health system in several states and calls for a national lockdown (or other strong social distancing measures), the new minister still refused to introduce it (Reuters Brasil, 2021). Some states and cities decided to enact decrees with lockdown-like measures. On April 7th, Brazil hit the historic mark of over 4000 COVID-19-related deaths in only twenty-four hours. Finally, on the 9th of April 2021, Bolsonaro authorized the federal government to promote the use of protection masks and social distancing measures for the first time. However, Bolsonaro refused to wear masks and attended large gatherings with supporters.

In the second half of the first semester of 2021, new vaccines started to arrive in the country after the federal government closed a deal with Pfizer, and the local production of the AstraZeneca vaccine gained pace. Despite a massive effort of state and municipal authorities to convince people to take the vaccine, Bolsonaro refused to get vaccinated and made several false remarks about it, including that people could acquire HIV after taking the vaccine. Regarding specifically the Pfizer vaccine, he said that:

*"The contract it's very clear: 'we (Pfizer) are not responsible for any side effects.' If you turn into a crocodile, it's your problem. If you become a superhuman, if a woman starts to grow a beard or if a man starts to speak with an effeminate voice, they (Pfizer) will not have anything to do with it".*
(The New York Times, 2021)

Despite Bolsonaro's efforts to hinder the vaccination process, the search for them increased as the doses arrived. A parliamentary commission that investigated the actions of the federal government during COVID-19 approved a report that recommended the indictment of Bolsonaro for nine crimes, among them crimes against humanity. The Brazilian Bar Association also said that there were multiple indicators that Bolsonaro committed crimes against humanity. To this day, Bolsonaro has never been officially indicted by Brazilian prosecutors for his handling of the pandemic.

## 3.1 Bolsonaro, COVID-19 and the Indigenous Peoples

While the entire handling of the COVID-19 pandemic by Bolsonaro was extremely problematic, the Indigenous Peoples, an extremely vulnerable group, faced an even more threatening situation. During the 2009 H1N1 influenza pandemic, their death rate was 4.5 times higher than the rest of Brazil's general population (Palamim, Ortega, & Marson, 2020). On April 1st, 2020, the first case of COVID-19 among Indigenous was officially recorded (Silva, Nascimento, Araújo, & Pereira, 2021). Bolsonaro had an open policy of attacking the environment and the Indigenous Peoples that started before his presidential campaign and continued in his first year in office. Of course, the right to land continued to be a major obstacle for Indigenous people, but the COVID-19 pandemic exposed the vulnerabilities of the healthcare system created for this population.

Indigenous people have a higher prevalence of diseases that are risk factors for COVID-19, such as obesity, hypertension, and diabetes mellitus (Cupertino, Cupertino, Gomes, Braga, & Siqueira-Batista, 2020). The worsening of Indigenous vulnerabilities results from the already heavily documented greater susceptibility to exogenous diseases but also from social and economic conditions, and difficulty accessing the health system (Silva, Nascimento, Araújo, & Pereira, 2021). It should be observed that typical cultural

behaviors, such as sharing gourds and other household utensils, community housing, and diverse hygiene practices, justified the fear that COVID-19 once one member was infected, the virus could spread widely in these communities (Cupertino, Cupertino, Gomes, Braga, & Siqueira-Batista, 2020). Furthermore, in addition to the Indigenous socialization outside their lands, they have contact with health professionals and other individuals as illegal miners and squatters, who often trespass on the Indigenous lands and have taken advantage of the COVID-19 pandemic to optimize their profiteering in areas previously preserved and destined to Indigenous people by law (Palamim, Ortega, & Marson, 2020).

Instead of seeing the pandemic as a moment to promote more policies designed to protect the more vulnerable, in the early months of the pandemic, a later released recording of a cabinet in the presidential palace revealed that the minister for environment stated that while the country's attention was on the disease, the government should pass several more flexible environmental laws, among them the facilitation for occupying Indigenous land and weakening the surveillance and prosecution of violations (Polidoro, et al., 2021). The strategy of Bolsonaro's government and its allies in Congress was to take some 9.8 million hectares from Indigenous and traditional territories in the Amazon for agribusiness (Carstens, 2022). Bolsonaro's government did not recognize urban Indigenous Peoples as part of this social group. In this sense, it meant that for the federal government, those Indigenous Peoples living in or near metropolitan areas did not fall under their duty to promote healthcare. Because the responsibility of taking care of Indigenous health falls mainly on the federal government, the data available for the first months of the pandemic is highly uncertain.

In April 2020, the Oswaldo Cruz Foundation, the main research center of the Brazilian Health Ministry, said that the early numbers of the spread of COVID-19 among the Indigenous population of Brazil, including a fast spread in very isolated communities, posed a severe threat to their existence, later the UN High Commissioner for Human Rights also emphasized the risk for racial and ethnical minorities, Indigenous Peoples among them (Godoy, Santana, & Oliveira, 2021). Around the same time, the CIMI also denounced the "neglect and indifference" of the Brazilian government and that it was using the pandemic

to withdraw assistance to communities, in addition to taking measures without significant impacts to contain the Covid-19 in villages (Conte & Paula, 2022).

The government did create a National Contingency Plan for Human Infection by the new Coronavirus (COVID-19) in Indigenous Peoples. However, the plan was highly criticized because it did not include the Indigenous people in its development and fell very short of the actual needs (Falkiewicz, 2022). The plan was very general and did not indicate specific actions to take by authorities. Given the situation the Indigenous were facing, in July 2020, the Brazilian Congress passed an emergency law that would have assured access to drinking water and the free distribution of hygiene products and materials to Indigenous communities (Carstens, 2022). However, Bolsonaro vetoed most of its articles, which Congress later overrode. Still, the government failed to implement most of the provisions of the law.

Because of the several inactions and failures of the federal government in fulfilling its role in ensuring healthcare access to the Indigenous population, the APIB decided to take an unprecedented move and called on the Supreme Court to act. On July 1st, 2020, APIB, six political parties[15], and the Law Clinic of Fundamental Rights of the Federal University of Rio de Janeiro proposed an Argument for Failure to Comply with a Fundamental Precept (ADPF, in Portuguese). The move is historic because only a few social actors[16] have the capacity to propose such action to the Supreme Court. It was the

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[15] The political parties that took part in the judicial proceedings were all from the opposition. They were the Workers Party (PT), Communist Party of Brazil (PC do B), Brazilian Socialist Party (PSB), Socialism and Liberty Party (PSOL), Democratic Labour Party (PDT) and Sustainability Network (REDE). Since 2023, the PT is the ruling party, and the other aforementioned parties currently belong to the government.

[16] According to Brazilian law, only the President of the Republic; the Board of the Federal Senate; the Board of the Chamber of Deputies; the Board of the Legislative Assembly or the Board of the Legislative Chamber of the Federal District; the Governor of the State or the Governor of the Federal District; the Attorney General of the Republic; the Federal Council of the Brazilian Bar Association; political party with representation in the National Congress; trade union confederation or class association of national scope have the right to enter with an ADPF. In the present case of Indigenous health during the COVI-19 pandemic, it was the first time an Indigenous organization was recognized as an association of national scope.

first time an Indigenous organization gained the recognition from the Supreme Court to do so. The leading Indigenous lawyer representing APIB, Luiz Henrique Eloy, a member of the Terena peoples, said that:

> *More than 30 years after the promulgation of the Constitution, this is the first time that Indigenous Peoples have gone to the Supreme Court, in their own name, defending their own rights and through their own lawyers, proposing an action of constitutional jurisdiction* (Terena, 2020).

In their initial petition to the Supreme Court, they highlighted that:

> *The pandemic exposed the weaknesses that the primary healthcare teams of the Unified Health System (SUS) and, more intensely, those of the Indigenous Healthcare Subsystem have faced daily for years, such as lack of adequate infrastructure, insufficient personal protective equipment; reduced stock of inputs and medicines; high turnover of professionals; difficulties in ensuring adequate training and implementing ongoing education with teams; problems of integration with the health network; and the precarious and unsanitary situation of the Indian Health Homes (CASAI). The reality of the most remote areas and DSEIs adds additional difficulties, such as communication restrictions (some places have communication exclusively via radio), difficult access, and logistical problems arising from geographic isolation (some DSEIs have access only by river or air).*

The lawsuit had several requests; the first was to determine the installation and maintenance by the federal government of barriers for the protection of Indigenous lands where isolated and recently contacted Indigenous Peoples are located and the creation of a "situation room" so that representatives of Indigenous Peoples and other authorities could support decision-making (Falkiewicz, 2022). If Indigenous Peoples, in general, are already more susceptible to viruses, the populations are still isolated, and those recently contacted are even more given that they have almost no protection against other diseases that do not circulate among them. The need for this situation room concerning the isolated and recently

contacted groups was given that the risk of genocide was elevated (Godoy, Santana, & Oliveira, 2021). Another request made was the creation of another plan to protect the Indigenous Peoples against COVID-19. Considering that the first plan did not include the participation of Indigenous representatives and scientific organizations.

The Supreme Court decided in favor of the Indigenous Peoples. It determined the creation of barriers by the federal government – mainly through the Brazilian army – and the formation of the situation room. The situation room had multiple representatives from the government (from presidential advisors to active members of the armed forces), Indigenous representatives, and public prosecutor's office members. Furthermore, the Court ordered developing a new plan to fight the pandemic with the participation of the Indigenous Peoples and researchers from the Oswaldo Cruz Foundation.

It is important to note that despite the Supreme Court's positive response, the federal government has failed to fully comply with the demands. The new plan was partially approved only in March 2021, almost eight months after the order to develop a new one. The federal government had presented three versions of the plan that were deemed insufficient and not fulfilling the requests made by scientists and Indigenous organizations, and the only reason the fourth version was approved is that in March 2021, the country was facing the largest outbreak, and some immediate actions needed to be taken (Falkiewicz, 2022). The situation room was coordinated by members of the army, giving a sense of intimidation without the actual goal of establishing a dialogue between the government and civil society (Godoy, Santana, & Oliveira, 2021).

The truth is that despite the importance and the historical relevance of this lawsuit, the federal government did not change its approach towards the Indigenous people during the COVID-19 emergency, which resonates with their general policies during the pandemic. In August 2021, the APIB denounced Bolsonaro in the International Criminal Court (ICC) for crimes against humanity and genocide. The Indigenous people claim that Bolsonaro is responsible for the deaths of more than 1,160 Indigenous people in 163 communities due to his negligence (Euronews, 2021). The ICC prosecutor still has to decide whether to proceed or not.

## 3.3 Conclusion

This chapter explored Jair Bolsonaro's handling of the COVID-19 pandemic, which showed significant irresponsibility and failure in governance. From the outset, Bolsonaro's actions appeared more supportive of the virus. His connections with some Brazilian political and economic elite members indicated a primary concern with preserving the economy, often at the expense of public health (Saraiva & Zago, 2021).

The federal government, under the responsibility of Jair Bolsonaro, repeatedly resisted scientific recommendations and undermined efforts to protect vulnerable populations, including Indigenous Peoples. The government's actions, characterized by denial and inaction, left Indigenous communities disproportionately affected by the pandemic. These native populations, who hold a unique relationship with the land, were subjected to policies and actions that were highly detrimental to their well-being. The APIB's historic steps in the Supreme Court ensured that Indigenous voices were heard at the highest judicial level. However, the Supreme Court could not force the federal government to act.

The magnitude of chaos produced by Bolsonaro's administration during the pandemic is hard to capture fully in these pages. Future generations will remember a president who, amidst the deadliest pandemic in a century, mocked the severity of the situation by simulating people dying out of breath. His negligence in not purchasing vaccines and delaying the immunization process resulted in numerous avoidable deaths.

Bolsonaro also demonstrated a profound disregard for democracy and the rule of law, consistently disrespecting constitutional principles. He instigated unnecessary conflicts with governors and mayors who did not align with his views, leading to significant legal challenges. The Supreme Court was notably tested and pressured. The Court's ruling that federal, state, and municipal authorities had the power and responsibility to decide healthcare policies had an immense impact.

The COVID-19 pandemic was a critical test for the Brazilian healthcare system and democracy. Bolsonaro and his allies persistently attempted to alter environmental laws, undermine local government officials, and spread disinformation. Resistance from various

sectors prevented Bolsonaro from fully realizing his detrimental plans. While this chapter focuses on Indigenous Peoples, it is essential to acknowledge the broader societal efforts to mitigate the pandemic's impact. The media, for example, played a crucial role in ensuring access to credible information.

This chapter proved that the federal government failed during the pandemic and violated human rights in many ways. The subsequent chapter will delve into state governments' responses to Indigenous Peoples' needs to further understand their actions during the pandemic.

# Chapter Four – Putting Other Actors to Test: the spiral within the spiral

This chapter analyzes the contingency plans for the COVID-19 pandemic of all 26 Brazilian states plus the Federal District (a particular administrative area with responsibilities very similar to the states where Brasília is located). State health authorities drafted these plans, which have normative power, although they are not laws per se. By studying these plans, we focused on how they approached the need to provide healthcare for Indigenous Peoples. They represent the priorities and goals of state officials concerning the protection of Indigenous Peoples during COVID-19.

In addition to the plans, we have also used other sources, mainly local and national news, to find out initiatives taken by Indigenous organizations and other CSOs at a local level, given that in the previous chapter, we have already mentioned actions taken nationally by the APIB. While researching these initiatives, in some cases, we have also found that municipalities have acted in collaboration with organizations. It is essential to highlight that analyzing actions in all Brazilian cities was impossible because of scope and time. Hence, many other actions might have been taken by municipalities, but they are not listed here.

After presenting our findings, we turn our attention to explaining the spiral within the spiral as proposed in previous chapters. This concept of a spiral within the spiral is critical to understanding the nature of multi-level governance in Brazil. The original Spiral Model of Human Rights Change outlines how international and domestic pressures can lead states to improve their human rights practices. However, in a federal system like Brazil's, there are additional layers of interaction and pressure among various levels of government (federal, state, and municipal) and civil society actors. These interactions can form a secondary spiral, where state and local governments, along with CSOs, pressure the federal government and each other to uphold human rights commitments.

At the end of the chapter, based on the traditional Spiral Model, we are able to position the events that took place in Brazil. In this sense, we build upon the findings of our previous chapters, combining Jair Bolsonaro's negligence with actions taken by the

Supreme Court, adding the national Indigenous movement with the APIB and the opposition parties, and eventually putting all of that together with the findings of this particular chapter and describing this spiral within the spiral.

That chapter is organized into two parts. The first one is divided into five sub-sections, representing the Brazilian regions, and contains the analysis of the contingency plans and other relevant actions. The second part is dedicated to combing the findings of this thesis and introducing the spiral within the spiral in the context of Indigenous healthcare during the COVID-19 pandemic in Brazil.

# 4.0 Indigenous people's healthcare and the other levels of government

As previously highlighted, the federal government's response to the COVID-19 pandemic was lacking in several areas. However, the Supreme Court, operating within its jurisdiction, played a crucial role by issuing timely demands for action. The decision to delegate power to other levels of government to create measures was a pivotal step in preventing a larger catastrophe in Brazil. The active participation of civil society also exerted significant pressure on various levels of government.

In the following subsections, we will analyze the constitutional plans made by all 26 Brazilian states and the Federal District. These documents offer the policies designed by this secondary level of government. In some cases, actions taken by municipalities within these states are also mentioned. In addition, we have also looked into the actions taken by Indigenous organizations and other CSOs in each state.

## 4.0.1 Southern Region

The southern region of Brazil, the smallest in area, composed of the states of Paraná, Santa Catarina, and Rio Grande do Sul, has two DSEIs. The DSEI "Litoral Sul" is headquartered in Curitiba, the capital of Paraná, and the DSEI "Interior Sul" has its main office in Florianopolis, the capital of Santa Catarina. All three states of the southern region mentioned the need to provide care for Indigenous Peoples in their territories in the contingency plans elaborated by the State Health Secretaries.

In the plan from Paraná, the health officials decided that even state officials must consider the information on whether patients who had COVID-19 were Indigenous or not. The plan also indicates the need to ensure Indigenous participation in public bodies, ensuring they can be part of policy development. It is a fact that Paraná has a specific council for Indigenous Peoples. During COVID-19, this body met to discuss the needs of Indigenous people considering the pandemic. In one case, it was the health authorities of Paraná that had to mobilize and organize efforts to deal with an outbreak at the Ocoy Indigenous group. The situation was handled through the management and technical team of the Parana's Health Secretary, who carried out the actions together with representatives of the municipality and the DSEI, as well as leaders from the local Indigenous community and the involvement of all partners was essential for adopting measures to contain the outbreak (Godoy, Freitas, & Oliveira, 2020).

In the extreme southern state of Rio Grande do Sul, the contingency plan recognized Indigenous Peoples as one of the most vulnerable groups during the pandemic. An interesting aspect of Rio Grande do Sul was the necessity of including specific actions for the Indigenous population's mental health and psychosocial support plans. The plan emphasizes the need for culturally sensitive communication so that Indigenous communities effectively understand the information. It was in this state that a court decision determined the inclusion of all Indigenous people as a priority group to receive the vaccines, as initially the vaccination plan from the federal government included only those in recognized Indigenous land (TRF-4, 2021). Because most Indigenous Peoples of Rio Grande do Sul fund their communities by selling their craftwork in cities, the pandemic forced them to stop this practice. The support offered by both the federal and state government was not enough, and CSOs organized themselves to provide food and basic needs (Sasso & Costa, 2020).

Santa Catarina's contingency plan focused on training health professionals on the cultural aspects of Indigenous people so that they could provide more culturally appropriate care. However, it fell short of having prepared anything more. It is worth noting that Santa Catarina is historically a conservative state, and the state governor was very connected to Bolsonaro. Similar to what happened in Rio Grande do Sul, local organizations organized

themselves to provide basic needs to the Indigenous communities in that state (Rede Luz, 2021). The state government essentially followed the policies of the federal government regarding Indigenous people and, with a society that still has issues in recognizing Indigenous as full members of it, the negligence was spread across different levels of government (Moser, 2020).

## 4.0.2 Southeastern Region

The southeastern region of Brazil, composed by the states of São Paulo, Rio de Janeiro, Minas Gerais and Espírito Santo is considered the economic powerhouse of the country. The region has two DSEIs, the "Litoral Sul"- which is also present in the southern region of the country, and that covers all Indigenous lands in São Paulo and Rio de Janeiro; another DSEI in the region is the "Minas Gerais and Espírito Santo" covering these two states.

The contingency plan of São Paulo recognized Indigenous populations as highly vulnerable during the COVID-19 pandemic. The plan gave importance to data collection, considering that it was of the essence to know how many Indigenous have been infected. It highlighted the need for culturally and linguistically adapted communication materials to promote effective prevention and control measures. It included the need to establish isolation areas within or near their communities. An important aspect when considering the situation of Indigenous Peoples in São Paulo is that the vast majority of them (91%) live in urban areas, meaning the vast majority are not recognized by the federal government as such, hence the actions of the state government in directing particular policies together with the municipalities was key to avoid a major outbreak (Comissão Pró-Índio de São Paulo, 2020).

In the city of São Paulo, Brazil's most populous city and capital of the state with the same name, an Indigenous group living in federally recognized land could not receive the healthcare the federal government should provide. In this particular case, Indigenous organizations worked with the public prosecutor's office to convince the municipality to give specific care to the community; the partnership was eventually formed, and a special procedure included using a school that belongs to the city as a place to isolate those infected with the virus (Pappiani, 2020). The city of São Paulo also worked together with

Indigenous leaders to elaborate information about the pandemic in Indigenous language and actively look for possibly contaminated people that did not want to look for help (São Paulo, 2020).

The State of Rio de Janeiro offers a much different situation concerning COVID. The contingency plan made by the state did not mention the needs and particularities of this population. It is important to note that Rio is the home state of Jair Bolsonaro and his main electoral base. The governor of Rio at the start of the pandemic was an unexperienced far-right politician. A few months after the start of the emergency, he was accused of corruption and eventually removed from office. This certainly did not provide the best political climate to develop any effective measure to fight the disease.

Giving the absence of an appropriate response from either the federal or state governments, in the interior city of Maricá, the municipality developed its own approach to protect the Indigenous living there. The city provided a special health team only for the Indigenous Peoples, meaning this team would not work in other healthcare establishments; at the same time the city helped the community by providing food and other basic needs, with this actions the Indigenous Peoples would not need to leave their land risking being contaminated (Miranda, 2020). In other cities of the state, such as Paraty and Angra dos Reis, the Indigenous leaders complained that lack of actions of the federal government, and that while they were receiving basic healthcare support from the municipalities, some other basic needs were only being provided by NGOs and religious organizations (Ribeiro, 2020).

Minas Gerais' contingency plan delineated specific strategies under the broader framework of providing targeted interventions for vulnerable groups. It provided a framework for organizing the workflow of the healthcare workers, highlighting the importance of a dedicated team for dealing with the Indigenous people. However, the information available regarding actions taken by state or the municipalities of Minas Gerais are very sparse. In a particular case, the Indigenous Peoples have worked together with research institutions to produce materials on prevention that are on Indigenous language. Together with the public prosecutor's office they manage to force the federal government to provide some food packages and other basic need materials (Barreto, 2020).

The plan from Espírito Santo underscored the importance of identifying and protecting vulnerable groups, including Indigenous populations. It had an educational approach to Indigenous families, including disseminating information through CSOs and churches. Espírito Santo's plan also provided a tool for healthcare workers to obtain specific data on Indigenous people contaminated with the virus.

## 4.0.3 Central-West Region

The Central-West Region of Brazil, comprising the states of Goiás, Mato Grosso, Mato Grosso do Sul, and the Federal District is served by many DSEIs. The DSEI Mato Grosso do Sul serves all the Indigenous people in the homonymous state, and the DSEI Araguaia serves all Indigenous Peoples in Goiás and partially the state of Mato Grosso. Given the cultural diversity of the various Indigenous Peoples who inhabit that territory, the state of Mato Grosso is served by several DSEIs, and they are Xavante, Xingu, Cuiabá, Vilhena, Porto Velho and Kaiapó do Mato Grosso. The Federal District (which is not legally a state and is a very small, unique administrative entity where Brasília is located) is not served by any DSEI.

Mato Grosso do Sul has the third-largest number of Indigenous communities in Brazil. The state's contingency plan recognized the challenge of providing healthcare for a large population spread across a vast territory. The plan included a framework to monitor cases in the Indigenous communities, and together with Indigenous leaders, the state prepared materials to inform the communities about the risks of the disease. Initially prepared in Portuguese, the state with Indigenous organizations later translated this so it could reach more people. The healthcare teams that worked near or directly with Indigenous communities received specific training on how to approach the pandemic with this population.

In Mato Grosso do Sul, the international organization Doctors Without Borders (MSF) was called by the Indigenous Peoples and the state government to help provide services in some Indigenous territories. The federal government initially refused the help that was arranged between the Indigenous associations, the state government, and the MSF, stating that it was fulfilling its role in providing healthcare to the Indigenous Peoples (Valente, 2020). Eventually, after pressure from the actors involved, the federal government

allowed the MSF to go and deliver care (Médicos sem Fronteiras, 2020). The state government said that given that the responsibility was of the federal government, it could not fulfill this role alone. Hence, it called for another partner organization to do it.

The contingency plan of Goiás acknowledged the unique vulnerabilities faced by the Indigenous population during the COVID-19 pandemic. The document outlined the need for providing psychological monitoring and support to Indigenous people. The plan included a framework of informative and educational measures to combat the "stigma" of the virus and those infected. The state promoted specific training for healthcare workers dealing with Indigenous people. Goiás also established a distribution network of essential resources such as personal protective equipment (PPE), medications, and food supplies to Indigenous communities.

Due to the federal government's negligence in handling the pandemic, in October 2020, the state of Goiás passed its own law to protect the Indigenous people living in the state. Despite the governor being a right-wing politician who used to be close with Bolsonaro, he supported the initiative and distanced himself from the federal government during the pandemic. The work to establish this law began with a research center from the Federal University of Goiás and Indigenous organizations (Goiás, 2020). The law emphasizes the importance of respecting these groups' social structures, customs, and territorial rights. Actions determined by the law included distributing over twenty thousand food baskets and protective masks to numerous communities and implementing rapid testing on site. According to law, these measures were coordinated by the state with the support of municipalities. To ensure transparency, the law required continuous dialogue between public institutions and Indigenous leaders to manage and monitor the actions.

The plan elaborated by Mato Grosso as a contingency for COVID-19 included a system of reporting for cases and deaths among Indigenous Peoples. It also recommends using telemedicine, given the need for social distancing. However, it fell short of providing any other specific focus on Indigenous communities.

Given the inadequate government response on all levels, several organizations in Mato Grosso have provided essential support, filling significant gaps in healthcare and protective measures. The Xavante community in Mato Grosso has experienced severe

impacts from the pandemic, lacking personal protective equipment and medical infrastructure. Religious organizations have provided several protective masks and medications. On the other hand, the proximity of religious members without proper protection, massive religious gatherings, and political visits to the Indigenous territories during the pandemic raised concerns. This led to complaints from some members of these communities. This is evidentiary of the contradictions that may arise when the state is negligent in its role. The SOS Xavante A'uwe Tsari campaign focused on providing the Indigenous community with critical medical supplies and support. Unlike the efforts of religious groups, it was funded by the Federation of Bank Workers of the Central North Region. Additionally, the campaign has supplied basic food necessities to discourage travel outside the villages.

The Federal District, which is not legally a state, but regarding that regarding healthcare has very similar responsibilities to one, is the only state in the region without a DSEI. This is because it has no recognized Indigenous land within its territory, although there are Indigenous Peoples living the urban suburbs of Brasília. The contingency plan highlighted the vulnerability of Indigenous populations, along with other marginalized groups such as people experiencing homelessness and incarcerated individuals. The plan also offers guidelines for private and public institutions, which may house Indigenous individuals, stressing the importance of maintaining social distancing, proper hygiene, and using technology like video calls to stay connected with support networks.

## 4.0.4 Northern Region

The northern region of Brazil is known for its vast and diverse landscapes, including mainly the Amazon rainforest. This region comprises seven states: Acre, Amapá, Amazonas, Pará, Rondônia, Roraima, and Tocantins. However, the area lacks access routes to the rest of the country. According to the latest available data, the area houses 44% of the Indigenous Peoples of Brazil. Because of vast natural resources, many still to be explored, the region faces many conflicts for land use. The states have also dealt with increased migration flows in the last years, mainly from Venezuela, Haiti, and Peru. Many Indigenous communities also do not see a national border, meaning they live and use the land on Brazilian territory and Peruvian, Colombian, French, and Venezuelan parts of the Amazon.

Given the substantial Indigenous population, 19 DSEIs are active in the country's northern region. In most cases, because of the location of Indigenous Peoples, the area covered by the districts does not respect state borders. The DSEIs in the region are Vilhena, Porto Velho, Alto Rio Purus, Alto Rio Juruá, Vale do Rio Javari, Médio Rio Purus, Médio Rio Solimões e Afluentes, Alto Rio Solimões, Alto Rio Negro, Manaus, Yanomani, Leste de Roraima, Parintins, Amapá e Norte do Amapá, Rio Tapajós, Altamira, Kaiapó do Pará, Tocantins, Guamá-Tocantins.

Amazonas is the largest Brazilian state in total area, and it is in the Amazon region of the country. While its capital, Manaus, is one of the biggest Brazilian cities and one of the largest industrial parks in South America, most of the state is covered by the forest. Given the location of the state, the connection between the Amazonas and the rest of Brazil is precarious, and even within the state's boundaries, the primary means of transportation are through water or air.

The state contingency plan outlined a multifaceted approach to healthcare specifically for Indigenous communities. It included deploying educational campaigns that are culturally sensitive and linguistically appropriate, with an emphasis on translating the information to make it more accessible. The plan also stressed the importance of aligning with Indigenous cultural norms to ensure community engagement, recognizing the crucial role of the audience in this process. Hence, according to the plan, these campaigns should be constructed in collaboration with community leaders. It also contained specific protocols for monitoring and responding to COVID-19 cases within Indigenous territories. The document mandated the immediate notification of suspected cases through the quickest available means.

The plan also included a framework for training local care workers to enhance the capacity of healthcare systems serving Indigenous populations. A significant part of the plan focused on the need for a coordinated response involving federal, state, and municipal health authorities. It also recognized the importance of NGOs active in Indigenous areas, as they could enhance the provision of medical care.

The US-based NGO Rainforest Foundation established the "Amazon Emergency Fund" in collaboration with Indigenous leaders and local CSOs (Rainforest Foundation,

2020). The fund aimed to provide immediate relief to Indigenous communities by supplying medical equipment, food, and other basic needs. Also, with the fund's support, local Indigenous organizations and health agents implemented other initiatives, including making physical barriers to prevent the entry of outsiders into Indigenous villages, conducting educational sessions on COVID-19 prevention, and providing traditional medical care.

Doctors Without Borders (MSF) built a temporary field hospital in the municipality of São Gabriel da Cachoeira (Doctors Without Borders, 2020). Due to its remote location and limited medical infrastructure, the city faced various issues with the pandemic. The organization also trained local healthcare workers on correctly using personal protective equipment, infection prevention and control measures, and administering COVID-19 tests and treatments. MSF designed the hospitals with local Indigenous organizations to accommodate their customs and preferences, and this approach encouraged greater acceptance and utilization of healthcare services among the Indigenous population. To make sure healthcare workers and Indigenous people could communicate, MSF also hired 40 translators.

In Manaus, the neighborhood Parque das Tribos, a predominantly Indigenous area in the city, the municipality installed in the early days of the pandemic a basic healthcare unit (Veras, 2021). However, the residents reported it lacked enough personnel and equipment to operate. With the leading healthcare network of the city under a lot of pressure, in 2021, the community, with the support of other organizations and single donations, created a field hospital. A completely Indigenous-led and run initiative also sought to respect their culture by integrating into their traditional medicine with conventional medicine.

Pará is the second-largest Brazilian state in total area, and the Amazon rainforest covers a vast portion of it. The contingency plan prepared by the state government significantly emphasized the need for continuous training of health professionals working in Indigenous areas. It also highlighted a work plan to ensure the notification of cases and deaths among Indigenous groups. Another point that was addressed was the need to continue to provide basic medical care for diseases such as diabetes and high blood pressure

during the pandemic, given that they are common among the Indigenous population of the state.

Indigenous organizations from Pará have worked with the public prosecutor's office to advocate with the state government to obtain more help in protecting the community, given that the DSEIs from the federal government were failing to do so. Despite these policies, the state government has refused to step up the help for the Indigenous communities, claiming it was a matter of the federal government. Municipalities also have denied requests for more primary care. This is partly because of land conflicts in the state, where land theft is a common practice, and the tension between Indigenous Peoples and land grabbers is common.

Because all three levels of power had failed to take concrete action, several organizations came together to support the Indigenous Peoples of Pará. The Indigenous Mutual Support Network of Southeast Pará created during the pandemic is formed by researchers, Indigenous people, missionaries, and activists linked to the Federal University of the South and Southeast of Pará, the State University of Pará, the Federal Institute of Science, Education and Technology of Pará, the Indigenous Missionary Council, and the Pan-Amazon Ecclesial Network (Reina, 2020). This network has provided primary healthcare and support in obtaining basic needs such as food and hygiene products. Most Indigenous Peoples in Pará do not have the habit of accumulating food and usually go hunting every day. However, because of the pandemic, this routine had to change, which has added a level of food insecurity that the network tried to solve.

Roraima is Brazil's northernmost state and faces several issues connected to the rest of the country. It is the only Brazilian state not in the national power system and has only one road connecting its capital to Manaus. In recent years, the state also had to deal with a surge in migration. The social, political, and economic situation in the bordering nation of Venezuela has led thousands to seek a better life in Brazil, creating substantial social tension because of the region's lack of jobs and opportunities. Covered entirely by the Amazon rainforest, Roraima has a large Indigenous population.

The contingency plan from the state of Roraima created a committee to coordinate the state's response to the pandemic, and it had the mandate to include members of the

Indigenous communities. However, the seats were taken by the administration of the DSEIs in the state, which gave the false impression that Indigenous interests were represented in it. The need to have a good registration of COVID-19 cases is emphasized, and specific guidelines are provided for healthcare teams to follow. The plan also pledged to promote culturally sensitive information regarding the pandemic.

Despite all of this, the government of Roraima and its municipalities did not work to provide extra or specific healthcare to the Indigenous Peoples in the state. The Indigenous communities in urban areas were treated together with the rest of the population, and those in Indigenous land relied only on the healthcare provided by the DSEIs. A particular issue that affected the state of Roraima was the invasion of the Yanomami Indigenous land. With vast mineral resources, this Indigenous land historically has been targeted by illegal miners seeking to explore gold and other minerals. Combined with a vast population of immigrants from Venezuela and Brazilians who cannot find a job in the state, large groups invade the Indigenous land to practice illegal mining. For years, this has exposed the Yanomami people to several diseases brought by the invaders, and with COVID-19, the situation became even more complex because they were carrying the new disease.

Illegal miners found the far-right governor of Roraima to be an ally, and amidst the pandemic, in February 2021, he signed a law authorizing mining using mercury in the state. Mercury poisons the water that is used by the Indigenous people and kills the fish that live in it. Not only does it have an immense ecological impact, but it also brings food insecurity to the Indigenous people, who rely on the environment to eat. Notably, most mining operations in the state are located within Indigenous land. Months later, in September 2021, the Supreme Court decided this law was unlawful and against federal environmental law. Given the invasions of Indigenous land, with the main aim of illegal mining activities, and the lack of actions by both federal and state governments, Indigenous Peoples in the region formed the self-organized Territorial Protection and Surveillance Group. This group had the job of keeping illegal miners away from the location of the Indigenous communities.

Acre's contingency plan recognizes the vulnerability of Indigenous communities. The state government created an operation center in the capital, Rio Branco, and because

of advocacy efforts from the local Indigenous organizations, they took a seat there. Together, the state government and the Indigenous organizations have created guidelines for medical staff to report COVID-19 cases and deaths. Partnerships with local organizations were also crucial in facilitating the spread of information. State and municipal governments and Indigenous organizations implemented strategies to inform Indigenous communities of preventive measures against COVID-19, including mobile loudspeakers and social media. To overcome the impact of geographical and infrastructural barriers, the state implemented telehealth services in communities that are further away from urban areas. In addition, after pressure from the World Health Organization and Indigenous organizations concerned by the lack of actions from the federal government, in August 2020, the governor of Acre decided to create a dedicated working group to deal with Indigenous health (Machado, 2020).

The Ashaninka people in the city of Marechal Thaumaturgo self-implemented strong isolation measures. They created a commission of only a few responsible for essential travel and economic activities. They initiated a solidarity campaign because the federal and state governments made insufficient funds available to the community (Nascimento, 2020).

Amapá's state contingency plan for COVID-19 does not specifically include or mention Indigenous people. Despite that, the state government, in partnership with the DSEIs in the state, has worked to offer some "extra" healthcare services during the pandemic, including rapid tests and training to local staff. However, Indigenous organizations complained that neither the local nor federal governments have worked to create translated materials about the disease. Because of this, a considerable number of Indigenous communities did not obtain relevant information when they needed it (Dantas, 2020).

Rondônia's contingency plan delineated various specific actions towards Indigenous communities, acknowledging their cultural and social particularities. It included a dedicated framework for local health officials to report cases among this population to the state, and specific isolation protocols were established for Indigenous patients to prevent the spread of the virus within villages. The plan asserts the need to

strengthen partnerships with active Indigenous leaders and CSOs in the state. It also designed an orientation on how to move severe patients from Indigenous communities to reference hospitals and how to ensure respect for their traditions in this process.

The Oswaldo Cruz Foundation helped the Indigenous Peoples of Rondônia by providing educational meetings about COVID-19, as many in the communities had doubts about the severity of the virus (Gadelha, 2020). The foundation did this work after it had been reached out by the Indigenous communities that complained that neither the government nor the military was doing anything to inform them about the pandemic. The IKEA Foundation and USAID supported local Indigenous organizations with funding to bring satellite interest to the communities, giving the need for isolation measures (PCAB, 2020). These local Indigenous organizations have also come together to create a security committee that would work on preventing land-grabbers from entering Indigenous lands (Spezia, 2020).

The state of Tocantins included a session dedicated to Indigenous Peoples in its contingency plan. This session includes an entire protocol, from being a suspected case to needing to be taken to a hospital. The plan aimed to ensure the cultural diversity of the various Indigenous Peoples would be respected. Hence, it called on the medical staff to work with Indigenous leaders to address other needs. The plan indicated the need for information to be available in Indigenous languages.

Local Indigenous organizations worked together with the CIMI to make leaflets about COVID-19 and inform Indigenous communities in Tocantins about the danger of the virus (CIMI, 2020). The organizations complained that they received none despite seeking help from the governments. Indigenous Peoples in Tocantins worked with the Federal University of Tocantins to prepare their contingency plan, which they proposed to the federal and state governments but was denied (Sinal de Fumaça: Monitor Socioambiental, 2020).

## 4.0.5 Northeastern Region

The northern region of Brazil is composed of nine states: Alagoas, Bahia, Ceará, Maranhão, Paraíba, Pernambuco, Piauí, Rio Grande do Norte and Sergipe. It has been a

stronghold for the left-wing Workers Party, winning all presidential elections since 2002. It has six DSEIs: Maranhão, Ceará, Potiguara, Pernanbuco, Alagoas & Sergipe, and Bahia.

Maranhão's contingency plan included specific guidelines for identifying and registering COVID-19 cases among the Indigenous population. It also contained translated materials into Indigenous languages and integrated traditional practices to ensure resonance and adherence from the communities. There are also mentions of the need to integrate the work of the state government with local organizations and municipalities to ensure the protection of Indigenous people.

The DSEI Maranhão, which covers the homonymous state, faced issues concerning the pandemic. As it happened with many positions within the federal government's structure, the command of the district was given to a member of the armed forces. Various Indigenous groups in the state had already decided and organized their self-isolation strategies to protect themselves from the virus (Leitão, 2020). However, the colonel leading the district decided to organize a major operation to "protect" the Indigenous people living there. This operation would include all three branches of the armed forces (the army, navy, and air force). The operation failed to provide care and establish a dialogue without any dialogue with the communities and the local governments. State officials and Indigenous leaders could not develop a partnership with the federal government (Varga, Viana, & Oliveira, 2022).

The state of Piauí failed to mention Indigenous Peoples in its contingency plan for the pandemic. Piauí lacks officially recognized Indigenous land and, therefore, does not have a Special Indigenous Health District (DSEI) to provide healthcare for Indigenous residents. However, the Warao people, who reside in the urban area of Teresina, the state capital, did receive some attention. This was due to mediation efforts involving the Warao people's local organization, the Federal University of Piauí, and the city's administration (Oliveira & Sousa, 2021). The Federal University of Piauí also collaborated with Indigenous leaders throughout the state to monitor and track COVID-19 cases among Indigenous populations, as neither city, state, nor federal authorities were taking responsibility for this task (UFPI, 2020).

Ceará's contingency plan recognizes the vulnerability of Indigenous Peoples and includes a framework for epidemiological surveillance that aims to identify and isolate COVID-19 cases. It also had guidelines for setting up sanity barriers near Indigenous communities. To ensure a culturally sensitive approach, healthcare professionals received training on the cultural practices of Indigenous populations. Other tools highlighted by the plan are translating materials into Indigenous languages and using cultural mediators to safeguard public health guidelines.

Local Indigenous organizations from Ceará joined other NGOs to organize a donation and fundraising campaign to provide basic needs and food (Sampaio, 2020). The state government decided to collaborate with this initiative by offering protective masks and food packages. Also, in coordination with the Indigenous organization, the state government took the leadership role in working with municipalities to establish and ensure the functioning of the sanitary barriers (Stigger, 2023). The state government also created a direct channel through the Council of Indigenous Peoples of Ceará to maintain constant dialogue with Indigenous leaders during the pandemic. The governor, a left-wing politician who opposed Jair Bolsonaro, decided to take such actions after the federal government failed to act.

The contingency plan from the state of Rio Grande do Norte contained a concrete framework for notifying cases and deaths caused by COVID-19 in Indigenous communities. The health officials produced communication materials that were not only translated but also revised with the Indigenous organizations to ensure that the messages were appropriate and understood by the Indigenous population. The state government also outlined pathways that the municipalities could adopt to help protect Indigenous people during the pandemic.

In response to the lack of governmental support, Indigenous leaders and organizations from Rio Grande do Norte organized donation campaigns, solidarity fairs, and crowdfunding initiatives to obtain essential goods for their communities during the pandemic (Moura, Boaventura, & Neves, 2021). These organizations also implemented sanitary barriers to control the spread of COVID-19. Indigenous leaders also partnered with

the Federal University of Rio Grande do Norte to offer precise and correct information to the communities (UFRN, 2020).

Paraíba's contingency plan included the Indigenous Peoples as a vulnerable group during the pandemic. It underscored the importance of culturally sensitive communication strategies, including translating materials into Indigenous languages and forming healthcare teams with the cultural specificities of these communities. The state government outlined a system for gathering and organizing data concerning cases and deaths among Indigenous communities. It also highlighted the need for permanent dialogue between state officials and Indigenous organizations.

Because of the negligence of the federal government, the state of Paraíba approved, in July 2020, a law to create an emergency policy to ensure access to healthcare for Indigenous Peoples in that state (Instituto Socioambiental, 2020). The law is very clear in providing that Indigenous Peoples are not only those living in recognized Indigenous land and that state and municipal authorities must consider also those living in urban areas (Assembleia Legislativa da Paraíba, 2020). The law also created a body with Indigenous participation and demanded that the state provide them with essential goods.

Sergipe's contingency plan included monitoring and tracking potential COVID-19 cases within Indigenous communities. For cases suspected or confirmed to be COVID-19, the plan mandated isolation in facilities, considering Indigenous communities' cultural and geographic context. Communication materials were developed in Indigenous languages and culturally appropriate formats. It also emphasized the need to provide logistical support to transport Indigenous Peoples in need of more specialized care to leading hospitals.

On its contingency plan, the state of Alagoas recognized the need to create specific strategies to protect Indigenous Peoples during the pandemic. It contained a proposal for translating material into Indigenous languages and training for medical staff working with this population to provide culturally sensitive care. It provided Indigenous communities with access to an adequate notification system for cases. The plan also acknowledged the need to prepare places for isolation within the communities.

Bahia's contingency plan emphasized the importance of monitoring of Indigenous communities due to their elevated risk, establishing a specialized epidemiological surveillance system. It also included the need for partnerships with local leaders and NGOs facilitate the implementation and acceptance of health measures. The establishment of isolation spaces within or near Indigenous communities.

Several Indigenous communities in Bahia complained that despite the government's pledge to maintain dialogue with them, that did not happen. The community had to use their sanitary barriers on roads, and this has created an explosion of violence between Indigenous communities and land-grabbers (Fernandes, 2020). Indigenous leaders have worked with the Landless Workers Movement to share responsibilities within the sanitary barriers and in sharing food and other needs.

## 4.2 The Spiral Within the Spiral is Found

As we analyzed in the first chapter of this work, the spiral model is a tool for comprehending human rights change considering one state and its relations to the international community. However, this thesis proposes using the same model to comprehend one country's human rights changes and policies with an essentially domestic spiral between different actors and levels of power.

After all the mobilization in the 1980s, the Indigenous movement had to reorganize itself, and in 2005, the APIB, a whole new national organization, was created. It faced a Lula siding with the agribusiness and Dilma fighting to build the Belo Monte dam. Michel Temer's short-lived government was no different and had a close deal with landowners. In 2019, Bolsonaro took power, and this is the movement where we find a weak opposition, as in phase one of the spiral model. As Bolsonaro takes power, the attacks on the Indigenous Peoples increase and, at this moment, are no longer only his verbally inappropriate claims. The main change here is that what used to be only speech and hate has become official state policy. From his first day in office, Bolsonaro started repressing the Indigenous people. With the advent of the pandemic, the situation started worsening rapidly.

In this first moment, we can cite his strong denial of the severity of COVID-19, the attempt to centralize all decisions concerning prevention measures on the federal

government, and the attacks against the other levels of power within the federal system. Specifically, concerning the rights of the Indigenous Peoples, the federal government was much more concerned about passing more flexible laws to use their land than working to establish much-needed policies to protect them from the virus.

The first reactions started coming from the organization that brought a case against the federal government for trying to centralize all decisions. The Supreme Court accepted and decided that all three levels of power (federal, state, and municipal) could decide on prevention measures against the pandemic. At the same time, NGOs and CSOs started denouncing the situation that Indigenous Peoples were going through. This is the phase where we see a strong mobilization starting to flourish among several civil society players, but not only among them. The governors and mayors, attacked by Bolsonaro, largely continue their work to promote policies and measures to prevent the spread of the virus and provide adequate support.

Bolsonaro enters his denial phase when he fires his two health ministers in less than a month. He denies doing anything wrong and insists on his negligence. Proof of this is that when Pazuello takes over the Health Ministry, he decides and agrees with the president on making chloroquine an approved medicine for COVID-19. Furthermore, the policies towards Indigenous Peoples continued to be insufficient, almost nonexistent when concerning the federal government. At this moment, it is evident that the situation is near phase two of the spiral model, where the repressive government denies its wrongdoings, and the other actors - the so-called opposition - continue to mobilize against it. The opposition includes the political parties that belong to it and the organizations that push for the respect of human rights and fundamental principles.

Regarding the Indigenous situation, this work took multiple fronts. We have organizations across the entire country working with other CSOs to provide food and other basic needs to Indigenous communities. At the same time, they are pushing state governments and, in some cases, city governments to start dealing, in particular, with the Indigenous population, considering that they are a vulnerable group.

A moment that had an enormous impact was when the APIB and the parties opposing Bolsonaro came together in a landmark Supreme Court case to force the federal

government to act. It is essential because it brought together the opposition parties that were not together before, and, most importantly, it was the first time Indigenous Peoples could speak before the Supreme Court using their voices. It also marks the beginning of the third phase of our spiral. The federal government started making tactical concessions visible in the situation room created. Although it was an order from the Supreme Court, the federal government took the chance to pretend it was doing something. As we have seen, the situation room did not work due to the lack of will from the federal government that filled it with members of the armed forces. This strongly characterizes the tactical concessions in the spiral model where no real change is intended.

As the Indigenous movement continued working and other actors continued to take their parts, the mobilization increased, and new outcomes were achieved. It is important to stress, for example, in the state of Goiás, the approval of a law dedicated to providing care for Indigenous Peoples; in the city of São Paulo, the combined efforts of the Public Prosecutors office with Indigenous organizations and municipal authorities to provide care; in Mato Grosso do Sul, the state government and Indigenous organizations working together and calling Doctors Without Borders to help expand the healthcare system, despite resistance from the federal government; in the city of Maricá, in Rio de Janeiro, city officials coming together with local Indigenous organizations to create sanitary barriers and provide dedicated care; the state of Acre creating a working group with Indigenous participation after those managed to get support from the WHO to their needs; in the state of Ceará, the state government taking the leading role of organizing the protection of Indigenous Peoples coordinating with the municipalities and local Indigenous leaders; in Paraná where the state's health authorities had to lead an intervention at an Indigenous community after the lack of actions from the federal government.

These state and city governments went outside of their legal competencies to ensure at least some protection for this population. While these are some more visible and clear examples of actions, some movements happened across the entire country, with state governments taking the lead in systematically organizing data on cases and deaths among Indigenous communities, ensuring at least some transparency in the data. What we have here is a spiral where the networks of Indigenous organizations with other CSOs, different

levels and branches of power, with the pressure of the international community, have managed to ensure the enjoyment of rights. In any way, all of this means that Indigenous Peoples were not subjected to inhumane treatment, lack of care, and possibly victims of genocide.

Moreover, it is hard to position the situation of Brazil in phase four because the country is already part of international treaties and has a national legal framework to protect the Indigenous Peoples. The actions of the Supreme Court and also those of the Parliamentary Commission that found Bolsonaro to be responsible for the crime of genocide can be evidence of other state institutions working to be in a stage where the law is applied and enforced.

The final phase with rule-consistent behavior is even less common everywhere, but in this case, what is characteristic of this moment is that the opposition managed to reach power after the 2022 elections. The parties that were in the opposition are all now part of the government. Focusing on Indigenous Peoples, the former director of the APIB, Sônia Guajajara, is now the head of the Ministry of Indigenous Peoples, which is undoubtedly a victory.

## 4.3 Conclusion

In this chapter, we examined some of the actions taken by Brazil's 26 states and the Federal District in response to the COVID-19 pandemic, focusing on healthcare for Indigenous Peoples. Building the research upon the contingency plans that these states did, we found that the vast majority of them mentioned the need to provide special care for the Indigenous Peoples, emphasizing that despite legally the healthcare for this population is a responsibility of the federal government, the state level had concerns about it. However, the contingency plans crafted by state health authorities varied in their comprehensiveness and proposed actions. Some included the need to work with local Indigenous leaders and organizations, while many did not. Once again, the Supreme Court's decision to allow state and municipal governments to implement their COVID-19 measures was crucial, as it gave more effective power to other levels of government. Some states even passed legislation to ensure Indigenous communities' access to healthcare.

As proposed in the earlier chapters, the spiral within the spiral returns in this one with the aim of connecting all previous findings and the ones of this chapter to build this secondary spiral. In Brazil's federal system, this other spiral suggests an additional layer of interaction among various levels of government (federal, state, and municipal) and civil society actors. This spiral illustrates how state and local governments and CSOs can exert pressure on the federal government and each other to uphold human rights commitments.

The traditional Spiral Model includes phases from state repression, where human rights violations are rampant, to rule-consistent behavior, where human rights norms are internalized and respected. In the context of Brazil, the federal government's initial repression and negligence regarding COVID-19 responses, particularly for Indigenous Peoples, triggered a denial phase characterized by attempts to centralize decision-making and downplay the severity of the pandemic.

In the first phase, the federal government repressed Indigenous rights and the opposition was weak. The second phase was marked by the federal government denying the violations and negligence. Still, it included the first mobilizations from the opposition, such as the actions of the Supreme Court and the coming together of opposition parties and Indigenous organizations. The third phase is made by the federal government making concessions, such as the situation room, although not leading to any actual change on the ground. In the fourth phase, the institutions and other government levels start ensuring that assistance is provided to the Indigenous Peoples. The fifth phase is marked by the 2022 elections, where opposition parties gain power, and Sônia Guajajara, former director of the APIB, becomes head of the Ministry of Indigenous Peoples, indicating a significant shift towards institutional support for Indigenous rights.

Overall, this chapter presented the actions of the state and other levels of government, together with relevant efforts from CSOs. It also discussed and designed the spiral within the spiral, combining the findings of the previous chapter with this one.

# Final remarks

Our work aimed to comprehend the interactions between different levels of government and civil society organizations regarding Indigenous Peoples' rights, particularly the right to healthcare, during the COVID-19 pandemic in Brazil. To achieve this goal, we initiated our work by presenting the historical aspects of human rights. In addition to that, we introduced how human rights and social sciences have interacted through the years. Human rights as we know them today were established after World War II; however, the struggle to have them enshrined in national and international legislation has continued ever since. Because of that, we found the importance of social sciences studying human rights to understand how they are socialized and how they become not only norms but values of a given society. In this context, especially after the end of the Cold War, new theories have tried to explain changes in policy and politics regarding human rights. The Spiral Model of Human Rights Change was a pivotal development to comprehend how international and non-state actors can influence changes in domestic human rights policies. Moreover, this model can easily be connected to multi-level governance, a new approach that came up in the 1990s to explain that governance has different levels with the participation of civil society organizations, supranational organizations, and other actors in a complex set of relations trying to influence policies.

Then, we proposed using this spiral model that was designed to explain changes in domestic politics regarding human rights, but it works without considering the complexity that exists within the states. This is more evident in federal states because this type of state organization aims to give back power to regional and local governments. The relationship between these governments, CSOs, and other actors can lead to a secondary spiral, which we have called a spiral within the spiral. We believed this spiral would look like the originally proposed model but could be a tool to further comprehend the agency some actors have that might be hidden in the traditional model. Our attempt to do so builds up with the situation of the Indigenous Peoples of Brazil during the COVID-19 pandemic.

To address this, we then turned our eyes to the Indigenous Peoples and traced back to how national articulation started. During the military dictatorship, they were constantly attacked by the non-democratic government in charge. It was very hard for different groups

to come together in the resistance because they are spread across the entire Brazilian territory, a country with the size of a continent. As evidence of the complexity of these relations, we have seen that the Catholic Church, an institution connected to several violations of human rights in Brazil throughout history, had a significant role in bringing these groups together. Of course, this only happened because a part of the Catholic Church was involved with a new dogmatic approach, the Liberation Theology. With the support of the church and other civil society organizations in the 1980s, the Indigenous people of Brazil created their first national organization. This was a massive outcome that took place during a dictatorship and in response to the repression the regime was imposing.

After democracy came back to Brazil, during the constitutional assembly in the late 1980s, this unified Indigenous movement pressured the constituents and guaranteed the enshrinement of Indigenous rights into the Brazilian Constitution of 1988. Another critical component of the Constitution is the provision that mandates that the state must provide healthcare to all people in the Brazilian territory. This meant an obligation to ensure healthcare for Indigenous people. Subsequent to the approval of the Constitution, there was a need to design how the country's healthcare system would be, and here we have a clash between the Indigenous movement and other social movements. Arguably, it was better to municipalize the healthcare system because, in a large territory, local governments would have more capacity to understand and address the needs of each community. However, the Constitution preserved the responsibility for Indigenous people with the federal government, and the Indigenous movement wanted to make sure the same would happen with their right to healthcare. The main claim of Indigenous people is their right to land, which means they could easily clash with local powers that are usually connected to landowners. More than ten years after the Constitution, a subsystem was finally created to provide healthcare to the Indigenous People.

In 2005, during a government that claimed to be pro-Indigenous, the Articulation of Indigenous People of Brazil (APIB) was created by bringing together existing regional organizations. Also, during the 21st century, this population still suffered a lot because the federal government was constantly under pressure from the agribusiness. However, in 2018, with the election of Jair Bolsonaro, the attacks against the Indigenous people grew

to an unprecedented level during democratic times. After one year that Bolsonaro was in the presidency, the entire world was shaken by the most significant pandemic of our times: COVID-19 arrived everywhere.

We illustrated how, from day one, Bolsonaro and his administration denied the severity of the situation. From the early days, Bolsonaro had already been spreading disinformation and attacking those trying to fight the virus. Not even a month into the pandemic, Bolsonaro already openly attacked governors and mayors. Furthermore, he attempted to concentrate all powers concerning healthcare protection measures on the federal government. At this moment, the Supreme Court became a vital actor because it ruled that healthcare is a responsibility of the three levels of power in Brazil. At the same time, the federal government, which had the responsibility to ensure healthcare to the Indigenous Peoples, was completely failing on that mission and was not even able to gather data on how many have been infected. Combining these events, we can start to describe our secondary spiral, the spiral within the spiral.

Initially, there is a repression moment, which is Bolsonaro attacking Indigenous rights, trying to keep all the power to himself and the first actions against him. The Supreme Court by responding strongly and keeping power divided between the three levels of the federal state. Regarding the Indigenous people, this is the moment when people started gathering their own data and organizing themselves to protect themselves from the pandemic. These early stages of mobilization that would bring together several actors. Eventually, the vast majority of Brazilian states included at least some mention of the Indigenous people in their contingency plans for the pandemic. The ongoing efforts led to a landmark case on the Supreme Court because it was the first sign that an Indigenous organization, the APIB, had the right to appeal to the highest court on the land claiming the respect of Indigenous rights, particularly their right to access healthcare.

While the court ruled in favor of the Indigenous people, the federal government did not really work towards that goal. They created a situation room, but they did everything to make it irrelevant without the capacity to influence policies. On the other hand, states, municipalities, civil society organizations, and Indigenous organizations have started to work together to mitigate the effects of the federal government's negligence. The federal

government's negligence resulted in a mobilization against it and in mobilizing other levels of power. If the Indigenous movement had focused only on the federal government, likely, many state and city governments would not have engaged in providing care to the Indigenous communities within their territories. Ultimately, the opposition parties that helped the Indigenous movement on their Supreme Court case against the federal government came together and elected a new president in 2022. Luiz Inácio Lula da Silva became president and created for the first time a ministry dedicated to the Indigenous people and appointed Sônia Guajajara, a former director of APIB, as the minister.

As we studied this process with a lens targeting the actions of other levels of government, we found governors and mayors willing to act, even though it was not their legal responsibility to do so. There is considerable complexity in the relations between different levels of governance. Usually, we tend to ignore one by focusing too much on the legal competencies or treating the state as a whole. This work proves that doing so ignores the realities on the ground, and the actions are much more diffuse. There is, in fact, a spiral within the spiral that takes place inside the state. Of course, it might look more visible in a federal state because the diffraction in the level of government is much more evident in them. However, it is hard to believe that the same does not repeat itself in unitary states because even those still have local government and, in some cases, supranational levels. It is certainly something that needs to be further studied and stressed by multi-level governance academia.

It is easier to see this in a federal state mainly because it is already more clearly divided into different levels of power. However, as multi-level governance research has shown, different levels of power exist in many other contexts. So, this operation we have found in Brazil may repeat itself in other scenarios. Some actors will likely change, and the model will undoubtedly need to be adapted to the organizations, but it gives a greater understanding of how domestic politics behaves. While the traditional spiral model tries to explain changes in domestic policies, it does not include the complexity within the state, mainly in federal states. It proves that strategies regarding human rights, or almost everything, must take the complexity of the state and of the actors inside of it. To explore this work further, it would be interesting to understand why each actor mobilized decided

to act. Was it because it cares for Indigenous rights or other things that led them to this decision? It is a question that remains to be answered.

The spiral circled back, bringing the first ministry dedicated to Indigenous Peoples in Brazil. If Lula, in his first terms, had difficulties moving forward in this area, it certainly took a significant step in 2023. However, why he and his party did it is still unclear. The Indigenous movement, which did not stop despite all the setbacks in the years before, is undoubtedly one of them; a second guess is a commotion with the practical genocide that happened during Bolsonaro. If not for those starting to organize a national Indigenous organization in the 1980s, today, Brazil would not have a Ministry for Indigenous People with an Indigenous Minister.

All of this brings us to the main conclusion of this work, which is that there is no reason to believe the process of implementing human rights is simple or involves few actors. It does not. Human rights policies will always involve many actors, and even inside one country, the actions and reactions of those actors can be studied and predicted using the spiral model. It also proves that a model initially designed to study human rights change in the context of international relations is also valid to comprehend domestic politics. In many ways, it is necessary to consider this complex domestic dimension of the states to achieve results on the ground.

To conclude, this work does not intend to speak on behalf of the Indigenous Peoples; on the contrary, it shows that they can speak for themselves. The intention here is to learn more about the strategy they have developed and implemented, place it within a theory, and expand it. Our work stresses that the flow of history is made of a spiral of actions and reactions, bringing us back and forth. As the Indigenous people have done since the first Portuguese ship arrived, the important thing is never to stop moving and resisting. There is a need to study, after all, with a generation of efforts and studies, an Indigenous lawyer could stand on the Brazilian Supreme Court. To resist, there is the need to open up to others, engage in dialogue, combine efforts, and create networks. As hard as it is, as complex as it is, and hoping this work brings some order to the chaos, we must never be indifferent to human rights violations.

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