

INDIGENOUS PEOPLES AND THE RIGHT TO HEALTH: ACCESS, INSECURITY AND BRAZILIAN POLITICAL SCENARIO

POVOS INDÍGENAS E O DIREITO À SAÚDE: ACESSO, INSEGURANÇA E CENÁRIO POLÍTICO BRASILEIRO

PUEBLOS INDÍGENAS Y DERECHO A LA SALUD: ACCESO, INSEGURIDAD Y ESCENARIO POLÍTICO BRASILEÑO

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The construction of the trajectories and experiences of indigenous peoples in Brazil, from colonization to the present day, occurred through processes of resistance and confrontation to conquer, guarantee and consolidate social rights, as well as the right to existence itself. For a better understanding of the current scenario of health policy for Brazilian indigenous peoples, some historical notes are appropriate.

The indigenous policy established in Brazil as a state policy was initiated with the Indigenous Protection Service (IPS) in 1910, being replaced by the National Indigenous Foundation (Funai) in 1967. This policy assumed the need to ensure minimum living conditions for those populations. However, it was based on the idea that this was a group under the process of disappearing and that, over time, it would integrate with the rest of society. In this sense, this was an emergency policy, planned with a transitory character.

In 1973, the Indigenous Byelaw was published⁽¹⁾, whose regular objective was “[...] the legal situation of the Indigenous and indigenous communities, aiming to preserve their culture and integrate them progressively and harmoniously into national communion”. This document showed the State’s tutelary and *assimilationist* attitude towards indigenous peoples. The byelaw, in practice, placed in the hands of the indigenous body all decision-making power and removed from the indigenous any possibility of autonomy.

This scenario was changing with the promulgation of the Federal Constitution (FC) in 1988. Capt. VIII of the Indigenous Peoples, Article 231, allowed an important step in the recognition of indigenous rights regarding “[...] their social organization, customs, languages, beliefs, traditions, and the original rights over the lands they traditionally occupy [...]”⁽²⁾. This important act would not solve the problems, mishaps and booties that the indigenous peoples have historically suffered, but it beckoned for the possible construction of indigenous autonomy, as it made room for the end of guardianship with the legal and political self-representation of those groups.

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All the governments that succeeded the publication of the FC were unsuccessful in the process of consolidating the constitutional rights of those peoples. Despite the advances of recent decades, indigenous peoples have remained in a situation of social vulnerability, because they have constantly had (and still have) their rights questioned and threatened.

An example was the Constitutional Amendment Proposal (PEC) n. 215⁽³⁾, which had been circulating in the National Congress since the 2000s and proposed the modification of two articles of the FC, the arts. 49 and 231. The proposal aimed to grant the National Congress exclusive competence to approve the demarcations of indigenous lands, thus transforming the legal act of demarcation into a political act subordinated to parliamentary interests. For many years, this proposal circulated in Congress in a secondary way, however, with the growth of the Agricultural Parliamentary Front (Rural Bench), it was gaining strength and more supporters. So far, however, social mobilization and indigenous peoples have succeeded in curbing such initiatives.

It is important to point out that the fundamental right of indigenous peoples in Brazil to their territory is one of the main targets in this process of dismantling indigenous policies. Since indigenous land is not only a place of residence or social reproduction, but also a cosmological space, which lends meaning to existence, this territory is an inalienable right. As Casé Angatu Xukuri Tubinambá states, “we do not own the land, we are the land”⁽⁴⁾. Thus, the idea of living, or rather, of “well living” begins in occupying and relating to the territory, including health issues.

Another characteristic example of this scenario was Opinion n. 001/2017⁽⁵⁾, known as the *Genocide Opinion*, which proposed preventing the redefinition of territorial boundaries and institutionalizing the Territorial Framework. That is, only those indigenous peoples who were in those territories on October 5, 1988, the date of the promulgation of the FC, would have right to their lands.

Both initiatives, after being considered as attempts to violate international human rights law by the Federal Prosecutor's Office, were annulled. However, they signal to a movement orchestrated by the Rural Bench and that has been amplified in the current Federal Government.

This movement is notorious since the first day of president Jair Messias Bolsonaro's term. Provisional Measure (PM) 870/2019⁽⁶⁾, edited by President Bolsonaro on his first day in office, intended to transfer Funai to the newly created Ministry of Family, Women and Human Rights and demarcation activities for the Ministry of Agriculture, Livestock and Supply (MAPA), commanded by the Rural Bench. Once again, the mobilization of indigenous and parliamentarians was fundamental for the non-approval of this item, and Funai maintained its activities in the Ministry of Justice and Civil Defense.

Nevertheless, on June 18, 2019, the President, in an unconstitutional way, reissued this rejected PM 870/2019, turning it into PM 886/2019⁽⁷⁾, which proposed to remove the land issue from Funai again, handing over the folder to MAPA. The National Congress acted quickly by sealing the reissue of this PM, considering it an affront to the constitutional text. This fact demonstrates the position of the President in relation to indigenous issues, of wanting, in any case, to expropriate the indigenous peoples of their territories, justifying it with the development of agribusiness and the economy of the country.

Those measures evoke the historical process of forced expulsions and removals of indigenous peoples from their traditional lands, executed by different federative entities and expansion fronts for developmental projects and for colonization purposes. The government of the extreme right rekindles positivist and evolutionary ideals of “order, progress and development” based on bullet, colonels, patrimonialism and nepotism, characteristics that demonstrate the structural and socio-environmental racism that exists in Brazil.

This political scenario is relevant for discussing the politics and health of indigenous peoples, because it has direct consequences for the living conditions of those peoples. Brazil is a country with great ethnic diversity. There are 305 indigenous peoples, speaking more than 274 languages, with 64% inhabiting indigenous lands and rural areas⁽⁸⁾. The guarantee of the possession and security of their territories

requires articulations between the various political agents of the indigenous field. The main challenge for health care is to incorporate the ethnic, cultural and epidemiological demands and particularities of those various socio-environmental contexts, that is, of indigenous villagers, in the city, isolated and threatened by land conflicts⁽⁹⁾.

Health workers act in conflicting social and geographical spaces and need to be daily attentive to the production of dialogical care, because indigenous societies have their own therapeutic system with distinct conceptions of body, disease, treatment, besides having rationalities that consider the relations between territory, nature, human and spiritual forces. Therefore, the activities developed in health services that treat those peoples demand differentiated intercultural actions.

The recognition of this cultural specificity occurred with the promulgation of the FC. However, only in 1999, those peoples were included in the Unified Health System (UHS), with the creation of 34 Special Indigenous Health Districts (SIHD), decentralized management units of the Subsystem of Indigenous Health Care. The territories of the SIHD were constituted based on the geographical occupation of indigenous communities, not coinciding with the geographical space of municipalities or states, a condition that brings challenges for the organization and articulation of primary care with other spheres of health care. In a simplified way, primary health care is provided in the villages, and indigenous peoples are referred to municipal/state health services for medium and high complexity care, according to the prerogatives of the UHS.

At the time of the implementation of the subsystem, a neoliberal policy prevailed, which advocated the lower participation of the State in social policies⁽¹⁰⁾. Thus, the outsourcing of health care was chosen, hiring private entities and non-governmental organizations for the execution of actions in the villages. Those institutions have been hiring health professionals through the temporary selection process, weakening the entire proposal.

In 2010, after intense mobilization and demand of indigenous peoples, the Special Bureau for Indigenous Health (Sesai) was created in the Ministry of Health. It began to manage directly the health and basic and environmental sanitation actions of indigenous lands. Before that, those actions were developed sporadically (campaigns) by different government agencies, including the IPS, Funai and the National Health Foundation, with advances and setbacks in each epoch.

Sesai was divided into three areas – Department of Indigenous Health Management, Department of Indigenous Health Care and Special Indigenous Health Districts – and would be the only one to manage and execute health actions within the Ministry. However, the hiring of social assistance charities to provide services in indigenous health care was maintained. In 2018, eight institutions were empowered to carry out such activities in the 34 SIHD.

In May 2019, a new decree signed by President Jair Bolsonaro (Decree n. 9,597)⁽¹¹⁾, brought changes in the management model, regimental structure and positions in committees and trust functions of the Ministry of Health. Among the changes is the extinction of the Department of Indigenous Health Management and the National Commission of Indigenous Policy, which acted as an interlocutor between ethnic groups and federal management. For some leaders, the decree is yet another attempt to restrict indigenous rights, making those peoples even more vulnerable.

The main concern is in the use of the term integration to the UHS, repeatedly mentioned in the text. Since the subsystem is already part of the UHS, the intention to integrate it is not clear, because the Minister of Health mentioned the need to pass part of the services to municipalities and states. In this case, the proposal is to municipalize the primary care offered in the villages? The decree itself does not mention municipalization, but in an anti-indigenous government contrary to the UHS, this can generate great damage for indigenous peoples.

The underfunding of the UHS prevents its implementation as a national health policy. In municipalities with greater proximity to indigenous lands, this is observed in the precarious supply of services. In this

economic and political situation, the municipalization of primary health actions would not find receptivity, and indigenous populations would possibly be in an even more marginal situation. Moreover, local conservative social sectors have established prejudiced and discriminatory relationships with indigenous peoples, which negatively affects the distribution of resources allocated to them.

Based on this report, there is the situation of insecurity and instability of the rights of those populations, in view of the destruction of policies developed over more than 30 years, in a process of negotiations and debates among scholars, indigenous-defenders, leaders and governments. This is another indication of the fragility of our Democratic Rule of Law.

The right to health in Brazil has been annihilated by several constitutional amendments proposed by parliamentarians who support the neoliberal policy instituted in the past federal governments and by successive cuts in budget resources. Although they may seem insignificant at first, those measures together demonstrate a strategy to undermine democracy and, consequently, the rights acquired with the promulgation of the Federal Constitution⁽²⁾. They are the implementation of the minimum State, as stated by the neoliberalism booklet for Latin and South America.

It is not yet known how all those changes will affect the SIHD, but the contingency of the federal budget has already brought repercussions for Sesai, which faces difficulties in fixing health professionals, not being able to pass on resources to the agreements, a fact that delays the payment of wages and the purchase of medicines and supplies. In an economy of scarcity, insecurity, uncertainty and the lack of guarantee of the maintenance of basic rights, they are ingredients for a progressive erosion of democracy.

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