

# Colonial Legacies and Indigenous Land Disputes in Brazil

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DOI: <https://dx.doi.org/10.47772/IJRISS.2025.906000472>

Received: 14 June 2025; Accepted: 23 June 2025; Published: 24 July 2025

## ABSTRACT

The situation of Indigenous peoples in Brazil is marked by persistent historical and structural inequalities that hinder the full realization of their fundamental rights—particularly those related to land, cultural integrity, and self-determination. Although constitutional provisions and international agreements, such as International Labour Organization (ILO) Convention No. 169, formally safeguard these rights, their implementation is undermined by institutional inertia, delays in land demarcation procedures, and regressive legal measures—notably the “time frame” thesis. These dynamics exacerbate territorial disputes and expose Indigenous populations to structural violence, criminalization, and environmental degradation. This study offers a critical analysis of the key challenges facing Indigenous peoples in contemporary Brazil, with particular emphasis on land-related conflicts, ethno-political resistance, and the limitations of current public policy frameworks. Drawing on a qualitative methodology grounded in recent academic and institutional literature, the research employs content and thematic analysis to explore analytical categories such as legal coloniality, environmental racism, and Indigenous self-determination. The findings suggest that Indigenous territorial struggles transcend demands for land recognition, constituting broader assertions of collective rights, alternative epistemologies, and ways of life that challenge an exclusionary and extractivist development model. Strengthening Indigenous political agency, ensuring effective land demarcation, and implementing intercultural and participatory public policies are essential steps toward dismantling colonial structures and promoting socio-environmental justice. Recognizing Indigenous peoples as political subjects is a prerequisite for building a truly pluralistic, democratic, and equitable society.

**Keywords:** Indigenous peoples, territorial rights, indigenous policies.

## INTRODUCTION

The situation of Indigenous peoples in Brazil is shaped by enduring structural and historical challenges that continue to undermine the realization of their territorial, cultural, and social rights. The persistence of land conflicts, delays in demarcation procedures, and policies that erode constitutional guarantees reflect the vulnerability of these communities in the face of entrenched economic interests and systemic exclusion.

In this context, it is imperative to conduct a critical analysis of Indigenous policies and institutional practices that impact territorial protection and the enforcement of Indigenous rights. Ethno-political resistance and social mobilization have emerged as central strategies in defending Indigenous territories and cultural autonomy, particularly in response to development-driven projects that threaten traditional ways of life.

This study aims to examine the principal challenges and prospects concerning Indigenous rights in Brazil, with a particular focus on land demarcation processes, resistance practices, and the structural violations faced by Indigenous peoples. The research adopts a qualitative, exploratory, and descriptive approach—appropriate given the complexity and sensitivity of the topic—by integrating historical, legal, and sociocultural dimensions (Creswell, 2010; Gil, 2010).

The methodological design is based on a comprehensive bibliographic and documentary review, drawing upon recent academic, legal, and institutional sources, as well as reports from Indigenous and environmental organizations (Soek, 2022; Strauss & Corbin, 2008). This theoretical framework provides a critical

understanding of the context under analysis, ensuring the validation of information and the inclusion of diverse perspectives.

Data analysis was conducted using content and thematic analysis techniques, enabling the identification of key analytical categories such as legal coloniality, environmental racism, and ethno-political resistance (Soek, 2022; Strauss & Corbin, 2008). The methodological approach emphasized reflexivity and contextualization, avoiding premature generalizations and ensuring scientific rigor throughout all stages of the investigation (Creswell, 2010; Flick, 2009).

Accordingly, this research contributes to the broader debate on socio-environmental justice and the rights of Indigenous peoples, underscoring the urgent need for public policies grounded in equity, cultural plurality, and self-determination.

### **Historical and Political Dynamics of Brazil's Original Peoples**

Before Portuguese colonization, Brazil was home to diverse Indigenous societies with rich languages, cultures, and communal leadership rooted in nature and spirituality. European arrival led to violence, forced labor, disease, and cultural suppression, including Jesuit efforts to replace Indigenous traditions with European norms. Despite this, many Indigenous groups resisted and, though marginalized in historical accounts, were crucial to colonial Brazil's formation (Fausto, 2006).

Even before colonization, Indigenous peoples were central to the territorial and ecological dynamics of the region, contributing advanced environmental knowledge that facilitated settler adaptation. Colonization relied heavily on their enslavement, leaving deep and lasting impacts. Although cultural losses were significant, Indigenous legacies endure in Brazilian culture, language, and territorial organization. Resistance and the struggle for land and cultural preservation continue into the present day (Bueno, 2012).

Sixteenth-century accounts emphasized the land's fertility and abundant natural resources, framing these features as justification for economic exploitation. Indigenous peoples were portrayed through an ethnocentric lens—as “barbarians” to be civilized through Christian conversion. Catechism thus served to legitimize Portuguese occupation under the guise of a religious and civilizing mission (Gândavo, 1980).

Throughout the colonial period, Indigenous peoples were instrumental in the inland expansion of the territory, at times as allies and at others as opponents in expeditions such as *bandeirismo* and missionary ventures. The interplay between resistance and submission illustrates the complexity of Indigenous-colonizer relations. The processes of catechization and enslavement left profound and lasting marks on these dynamics (Abreu, 1998).

In the nineteenth century, elite discourses often portrayed Indigenous peoples as extinct. Yet they remained present and active. The Empire sought to assimilate them through policies inspired by the Pombaline Directory, dismantling communal lands and villages. Still, many Indigenous groups resisted, asserting rights through petitions and other political strategies. While elites manipulated Indigenous identity to justify dispossession, Indigenous peoples themselves preserved and reaffirmed their identities, leading to processes of *ethnogenesis* (Almeida, 2012).

From the 1970s onward, Indigenous communities in Brazil expanded their resistance to state-driven initiatives aimed at erasing cultural distinctiveness. Grounded in the affirmation of ethnic identity, their activism encompassed demands for territorial rights, cultural preservation, and educational inclusion. Engaging at local, regional, and national levels, these groups confronted colonial narratives and challenged centralized state authority, promoting instead a vision of citizenship that embraced cultural plurality and recognized the unique rights of Indigenous peoples (Luciano, 2006).

Colonization produced long-term impacts on Indigenous health, including the spread of disease, malnutrition, and elevated mortality rates. Despite institutional advances—such as the creation of the National Indian Foundation (FUNAI) and the inclusion of Indigenous health care within the Unified Health System (SUS)—significant inequalities persist in access to and implementation of culturally appropriate care. Factors such as inadequate training of Indigenous Health Agents, political interference, and asymmetrical relationships

between communities and health teams continue to undermine the effectiveness of primary care and intercultural health practices (Maggi, 2007; Langdon & Diehl, 2007).

Two fundamental paradigms can be identified in public policies directed at Indigenous peoples. The first is the assimilationist—or integrationist—model, which seeks to incorporate Indigenous peoples into national society according to the values and institutional frameworks of Western liberalism, subordinating their identities and rights to the interests of neoliberal and neocolonial capitalism. Within this framework, self-determination is either denied or severely restricted, resulting in merely symbolic participation rigidly controlled by the state (Duarte, 2024).

The second paradigm, grounded in the principle of self-determination, emerges as a critical alternative. It advocates for the full recognition of Indigenous autonomy and effective political participation in state decision-making processes. This approach affirms self-determination on two interrelated levels: community autonomy and political representation—emphasizing collective rights, territoriality, traditional practices, and Indigenous worldviews (Duarte, 2024).

The ethnic and cultural formation of Brazil was profoundly shaped by Indigenous peoples, who are recognized as the foundational matrix of the Brazilian nation. The concept of *cunhadismo* is central to this process, as it exemplifies the integration between Portuguese colonizers and Indigenous populations through *mestizaje* (racial and cultural mixing). However, this integration was also marked by the violence of “de-Indianization”—a mechanism through which Indigenous peoples were either assimilated or exterminated, leading to the subordination and erasure of their cultures (Ribeiro, 2006).

The Brazilian civilizing project has been widely criticized for transforming Indigenous peoples—from protagonists of territorial occupation—into marginalized and invisibilized subjects. Nevertheless, Indigenous contributions remain deeply embedded in Brazil’s linguistic, culinary, and cultural fabric, particularly in foundational aspects of regional identities. The country’s diversity is encapsulated in the notion of the “many Brazils,” with particular emphasis on *caboclo* and *sertanejo* regions, where distinctly Indigenous cultural traits have been preserved (Ribeiro, 2006).

In Brazil, a wide range of Indigenous organizations has played a central role in promoting and defending Indigenous rights. Among these, the Articulação dos Povos Indígenas do Brasil (APIB) stands out as a key national network, coordinating political actions and amplifying Indigenous voices at both national and international levels.

In addition to APIB, several regional organizations represent specific territories and cultural contexts. These include Apoinme, which operates in the Northeast, Minas Gerais, and Espírito Santo; Coiab, which focuses on the Amazon region; and ArpinSul, which represents Indigenous groups in the country’s southern states.

These organizations lead high-impact mobilizations, such as the Acampamento Terra Livre (ATL – Free Land Camp), which annually brings thousands of Indigenous leaders to Brasília to advocate for rights and denounce violations. Their agendas center on key issues such as land demarcation and protection, the valorization of traditional cultures, the right to self-determination, and the preservation of natural resources. Beyond national action, APIB also engages in international forums, raising awareness of the demands and realities faced by Indigenous peoples in Brazil.

Complementing these efforts, several civil society organizations play an important role in defending Indigenous rights. Among them are the Conselho Indigenista Missionário (Cimi – Indigenous Missionary Council), the Instituto Socioambiental (ISA – Socio-Environmental Institute), and the Centro de Trabalho Indigenista (CTI – Center for Indigenous Work), which provide technical, legal, and political support, enhancing the visibility and effectiveness of Indigenous struggles at multiple levels.

According to data from the Brazilian Institute of Geography and Statistics (IBGE, 2023), more than half of the country’s Indigenous population—approximately 53.97%, or 914,746 individuals—currently reside in urban areas. The 2022 Demographic Census recorded just under 1.7 million Indigenous people in Brazil, representing

less than one percent of the country's total population. This figure reflects a significant increase of nearly 90% compared to the 2010 Census, which documented 896,917 Indigenous individuals. This growth can be attributed both to methodological improvements in data collection and to the strengthening of Indigenous identity and self-identification processes (IBGE, 2023).

The geographic distribution of the Indigenous population reveals a strong concentration in the North Region, which accounts for 44.48% of the national total—particularly in the state of Amazonas, home to 490,854 Indigenous people. However, the state of Bahia registers the highest number of municipalities with an Indigenous presence—293 in total—demonstrating that Indigenous populations are also widely dispersed beyond the Legal Amazon region (IBGE, 2023).

In terms of residence, the census found that only 36.9% of the Indigenous population live in officially recognized Indigenous Lands. The remaining 63.1% reside outside these territories, in urban or rural contexts, underscoring the complexity and heterogeneity of Indigenous territoriality in contemporary Brazil. The 2022 Census considered 573 Indigenous lands, classified according to their legal status as declared, approved, regularized, or designated as Indigenous reserves (IBGE, 2023).

Regarding households, the census recorded 612,732 private permanent dwellings with at least one Indigenous resident. The average number of Indigenous individuals per household was 3.8, with the highest concentrations located in the North and Northeast regions—confirming previously observed patterns of population distribution (IBGE, 2023).

One important methodological advancement of the 2022 Census was the introduction of a follow-up question directed at non-self-declared residents of Indigenous Lands, asking whether they identified as Indigenous. This approach led to the identification of nearly 79,000 additional individuals, resulting in an 8.8% increase in the recorded Indigenous population and enhancing the accuracy of ethnoracial identity representation (IBGE, 2023).

Finally, the census emphasized the ethnolinguistic diversity of Indigenous peoples in Brazil, identifying 305 distinct ethnic groups and 274 Indigenous languages spoken throughout the country. These data underscore the richness and complexity of the original cultures that form Brazil's sociocultural mosaic (IBGE, 2023).

The 1988 Federal Constitution, in Chapter VIII, establishes the foundational legal framework for Indigenous rights in Brazil. It recognizes the social organization, languages, traditions, and original rights of Indigenous peoples to the lands they have traditionally occupied. Article 231 assigns the federal government the responsibility for demarcating and protecting these territories, which are essential to the physical and cultural reproduction of Indigenous communities. These lands are defined as those that are permanently inhabited, used for productive activities, and preserved in accordance with Indigenous customs (Brasil, 2016).

The Brazilian Constitution ensures Indigenous peoples' exclusive and perpetual rights to their lands and natural resources, requiring congressional approval and community consultation for any resource exploitation. Legal protections include inalienability, immunity from prescription, and the right to judicial defense with Public Prosecutor involvement (Brasil, 2016).

While the Constitution allows for the possibility of mineral exploitation on Indigenous lands with legislative authorization and consultation, the absence of specific regulation renders this provision inoperative (Barreto & Sirotheau, 1998; Holder, 2010; Curi, 2007). This legal vacuum fosters uncertainty and enables predatory practices that violate Brazil's international obligations, particularly ILO Convention No. 169, which ensures the right to free, prior, and informed consultation.

Articles 231 and 232 constitute the constitutional foundation of Indigenous rights in Brazil, further supported by international instruments such as the UN and OAS declarations and ILO Convention No. 169, which strengthens collective and cultural protections. The Federal Supreme Court has incorporated Inter-American Court of Human Rights jurisprudence, reinforcing the principle of conventionality control and emphasizing human rights as a fundamental interpretive standard. Additionally, CNJ Recommendation No. 123 urges the

systematic application of international human rights treaties in domestic jurisprudence, reinforcing protections for Indigenous peoples (CNJ, 2023).

The prolonged stagnation of legislative proposals—such as Bill No. 121/1995 and Bill No. 1,610/1996—intended to regulate mining on Indigenous lands contributes to ongoing legal insecurity. This lack of regulation undermines the rights to consultation and benefit-sharing, contravening both the Constitution and international commitments (Holder, 2010; Curi, 2007).

Violence against Indigenous communities is closely linked to the denial of territorial rights, impunity, and the criminalization of Indigenous leaders. Delays in land demarcation and legislative regressions exacerbate the risks faced by these populations, including the threat of genocide (Bragato & Bigolin Neto, 2017).

The legal system displays a structural imbalance in its handling of land conflicts and violence, often protecting the interests of agribusiness and mining while suppressing Indigenous resistance. The criminalization of Indigenous mobilizations illustrates the political manipulation of criminal law to undermine their legitimacy. Moreover, the persistence of stereotypes and the denial of cultural diversity sustain mechanisms of invisibilization and legal standardization, ultimately reinforcing institutional violence (Amado & Vieira, 2021; Barbosa & Garcia, 2024; Santos et al., 2025).

Cases like the Mãe Maria and Yanomami Indigenous Lands highlight the severe socio-environmental impacts caused by mining activities, whether authorized or not. These include widespread deforestation, polluted water sources, declining biodiversity, and the disruption of traditional ways of life. Territorial tensions are further intensified by major infrastructure developments—such as roads, dams, and large-scale agricultural operations—especially when no safeguards or buffer zones are established to protect Indigenous territories (Farias, Teixeira & Brito, 2023).

In the realm of Indigenous school education, a plurality of actors emerges: policy designers and legislators advocating for Indigenous rights; the broader Indigenous intelligentsia; and notably, insurgent Indigenous groups engaged directly with communities. These actors bring both complementary and divergent perspectives to the educational landscape.<sup>1</sup>

There is increasing recognition of the positive impact of schooling in Indigenous languages as a means to address the harm caused by standardized and exclusionary educational policies. Nonetheless, stakeholders often disagree on the root causes of these issues and on the intended goals of such educational reforms. Disputes over orthographies and the symbolic meanings of graphemes reveal underlying ideological tensions (Franchetto, 2008).

Although Brazil has a comprehensive legal framework that defines Indigenous education as intercultural, community-based, and specific, major implementation challenges remain. As of 2022, only 3,484 out of approximately 178,300 basic education schools were located on Indigenous lands, most of which offered only early primary education. Higher levels of schooling are typically accessed outside traditional territories, highlighting the limited educational infrastructure available within Indigenous communities.<sup>2</sup>

Although Indigenous illiteracy rates declined from 32.3% in 2010 to 20.8% in 2022, they remain disproportionately high. The expansion of educational access within Indigenous territories has contributed significantly to this improvement, particularly by advancing literacy among the most vulnerable populations. This period also saw an increase in the number of Indigenous people residing on these lands.<sup>3</sup>

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<sup>1</sup> According to Santos, Ravache, and Seabra (2024), many Indigenous groups advocate for their rights—such as land access, bilingual education, and the revival of traditional practices—but the Paresi of Mato Grosso uniquely ally with agribusiness, employing around 250 Indigenous workers and generating roughly R\$130 million from soybean cultivation, all while insisting that this economic partnership enables them to preserve their cultural traditions.

<sup>2</sup> Available at: <https://shorturl.at/yXEVQ>. Accessed: July 2025.

<sup>3</sup> Available at: <https://shorturl.at/sRzr1>. Accessed: July 2025.

The Federal Program of Affirmative Action Policies establishes quotas and scholarships to facilitate the entry and retention of Indigenous students in higher education, seeking to address historical inequalities. Concurrently, the Parfor program, under CAPES/MEC, provides training for Indigenous teachers, fostering genuinely inclusive, intercultural, and community-based education.<sup>4 5</sup>

Any regulation concerning mining must prioritize socio-environmental protection and the preservation of traditional ways of life, grounded in the principles of environmental justice, territorial autonomy, and the recognition of Indigenous knowledge systems. Critiques of the extractivist model—which is based on intensive exploitation and structural violence—underscore the need for sustainable and equitable alternatives (Farias, Teixeira & Brito, 2023; Held & Botelho, 2017).

In 2024, rural conflicts intensified significantly, culminating in 31 recorded homicides—the highest number since 2016. Alarming, Indigenous peoples represented approximately one-third of these victims, highlighting their disproportionate exposure to violence. It is important to note that such violence is not limited to lethal outcomes: threats, forced evictions, and the destruction of homes further complicate efforts to fully document these violations (CPT, 2025).

Historically, Indigenous peoples have been systematically displaced from their ancestral lands due to economic and political pressures, leading to deepened social vulnerability and recurring conflicts. Until the 1980s, demographic projections anticipated a continued decline in the Indigenous population, largely due to ongoing rights violations and assimilationist policies. This legal recognition contributed to a significant demographic recovery, with the population rising from approximately 897,000 to nearly 1.7 million individuals (IBGE, 2022; Bragato & Bigolin Neto, 2017).

The demarcation of Indigenous Lands in Brazil reflects both significant progress and persistent structural challenges. According to data from the Instituto Socioambiental (ISA, 2025), 809 Indigenous Lands have been registered, encompassing approximately 13% of the national territory and home to 279 distinct Indigenous peoples.

Of these, just over half (518) have been officially ratified. The remainder are at different stages of the legal regularization process: 68 have been declared, 36 identified, 167 are under study—including areas designated for isolated groups—and 20 have been classified as Indigenous Reserves. This distribution illustrates the slowness and complexity of the demarcation process, underscoring enduring institutional and legal barriers (ISA, 2025).

A central point of controversy is the *time frame thesis*, which conditions land rights on Indigenous presence as of October 5, 1988—the date of the current Constitution's promulgation. This criterion disregards historical expulsions and state-sponsored displacement, contradicting both national jurisprudence and international norms such as ILO Convention No. 169. Although applied in the 2009 *Raposa Serra do Sol* case, the Supreme Federal Court (STF) ruled it unconstitutional in 2023. Nevertheless, Congress subsequently enacted Law No. 14.701/2023, reinstating the thesis and intensifying institutional tensions (Held & Botelho, 2017; Starck & Cademartori, 2024).

Paradigmatic cases such as *Raposa Serra do Sol* and *Guyraroka* reveal how the time frame thesis has been enforced in disregard of anthropological evidence. In contrast, the Inter-American Court of Human Rights affirms land rights based on ancestral, spiritual, and historical connections, without requiring a fixed date of presence (Pegorari, 2017). From this perspective, Law No. 14.701/2023 is not only unconstitutional but also *unconventional*, violating international obligations under the American Convention on Human Rights and ILO Convention No. 169 (Starck & Cademartori, 2024).

The enactment of this law represents a significant setback for Indigenous rights in Brazil, reinforcing institutionalized territorial violence, particularly in the Amazon. Despite the STF's rejection of the time frame thesis, the law was approved with strong support from the Agricultural Parliamentary Front (FPA). By

<sup>4</sup> Available at: <https://tinyurl.com/2ytypxmr>. Accessed: July 2025.

<sup>5</sup> Available at: <https://tinyurl.com/mrxp3nbb>. Accessed: July 2025.

imposing a restrictive temporal criterion, it effectively disregards ancestral ties and legitimizes past acts of dispossession (Borges, 2024).

The recently enacted legislation undermines the Indigenous Statute by easing restrictions on non-Indigenous presence in territories under demarcation and allowing contracts for economic exploitation. Supported by the Agricultural Parliamentary Front (FPA), the law advances agribusiness interests under the pretext of promoting legal certainty. This process of forced deterritorialization has been described as a form of genocide, disproportionately affecting Indigenous women, and exemplifies the alliance between the State and agro-export capital in the systematic exclusion and dispossession of Indigenous peoples (Borges, 2024).

In a pivotal decision in September 2023, the Federal Supreme Court (STF) dismissed the time frame thesis while ruling on Extraordinary Appeal No. 1.017.365, asserting that Indigenous land rights do not depend on proof of occupation at the time the 1988 Constitution was enacted. Although this judgment carries significant legal weight, the STF has yet to rule on the constitutionality of Law No. 14.701/2023, maintaining ongoing friction between Congress and the judiciary over the scope and recognition of Indigenous territorial rights.<sup>6</sup>

### **Judicial and Political Obstacles to Indigenous Rights**

The persistent delays in demarcating Indigenous lands are closely tied to the entanglement of economic agendas and judicial processes. Rather than stemming from administrative inefficiency alone, these setbacks reflect deeper political, legal, and structural obstacles rooted in disputes over land control and power asymmetries. The absence of meaningful prior consultation and the prevalence of antagonistic public narratives only serve to deepen temporal injustices and hinder the realization of Indigenous territorial rights (Soares, 2024).

Judicialization often reinforces narratives that delegitimize Indigenous identities by questioning their origins and authenticity. Historically, political boundaries were used to impose identity boundaries, supporting assimilationist policies. Indigenous mobility was portrayed as a threat to public order, legitimizing forced sedentarization. The expansion of agribusiness and the interventions of state agencies have significantly influenced land occupation and curtailed Indigenous rights. Nevertheless, Indigenous peoples continue to resist and reassert their identities through cultural practices and political mobilization (Ferreira, 2009).

The adoption of October 5, 1988 as the reference date for traditional occupation disregards historical contexts of violence and forced displacement, producing legal uncertainty. It has also enabled state intervention in Indigenous lands without prior consultation, undermining territorial autonomy. Additionally, the transfer of management responsibilities in overlapping areas with conservation units to the Chico Mendes Institute weakened established co-management practices and further eroded Indigenous self-governance (Yamada, 2011).

The persistence of internal colonialism in Brazil is evident in ongoing violations against Indigenous peoples, including territorial encroachments and the systematic denial of rights. Rooted in structural racism, these practices contribute to the erasure of Indigenous histories and identities, reinforcing patterns of exclusion and marginalization. Despite the existence of legal protections, state actions frequently fall short, underscoring the need to reclaim collective memory and resistance as tools to confront colonial legacies and racial injustice (Castro, 2023; Russi & Marshal, 2020; Macena, 2024).

Historically, the colonial logic of “protection” served to justify land dispossession, forced labor, and state tutelage. These mechanisms imposed deep social and cultural losses on Indigenous communities, legitimizing marginalization through stereotypes. Although Indigenous peoples were the first inhabitants of Brazil—estimated between 1 and 8 million in 1500—their populations declined drastically over the centuries due to violence, disease, and dispossession (Schwarcz & Starling, 2015).

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<sup>6</sup> Available at: <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=514552&ori=1>. Accessed on: May 14, 2025.

The concept of “ethnic transfiguration” captures the dismantling of Indigenous societies in response to the expansion of national society. Between the 19th and 20th centuries, Indigenous peoples were subjected to forced integration and loss of autonomy under the Indian Protection Service (SPI), whose failures and abuses are well documented. Nonetheless, Indigenous communities resisted through the preservation of cultural practices and political mobilization, calling for policy reforms grounded in self-determination and cultural continuity (Ribeiro, 1985; Oliveira, 2016).

Colonization operated through both physical extermination and symbolic appropriation—destroying Indigenous societies while extracting and incorporating their knowledge. Despite centuries of exclusion, Indigenous presence remains embedded in Brazilian culture, from food systems and agriculture to place names. Romanticized narratives of miscegenation often obscure the violent foundations of these interactions (Schwarcz & Starling, 2015).

The inclusion of Indigenous territorial rights in the 1988 Constitution was the result of intense political mobilization, symbolized by figures such as Ailton Krenak. Article 231 marked a break from the logic of state tutelage, yet conservative resistance blocked broader recognition, including the concept of plurinationality. Ongoing threats demand sustained efforts to defend and advance these constitutional guarantees (Santana & Cardoso, 2020).

The Parliamentary Inquiry Commission (CPI) on FUNAI and INCRA (2015–2017) was instrumentalized by members of the ruralist caucus to attack the demarcation of Indigenous and Quilombola lands. The commission delegitimized public institutions and targeted Anthropology, accusing it of fraud while excluding Indigenous representation (Dalla Costa, 2023). Its final report constructed a one-sided and anti-scientific narrative aimed at weakening technical assessments and transferring demarcation authority to Congress—a movement that coincided with the impeachment crisis and the rise of agribusiness influence in Parliament (Dalla Costa, 2023).

Meanwhile, increasing Indigenous migration to urban areas has exposed new challenges related to identity, housing, and access to public services. The lack of public policies that address urban cultural diversity compromises basic rights and calls for inclusive strategies grounded in ethnic and territorial recognition (Nascimento & Vieira, 2015; Silva & Ribeiro, 2019; Vieira & Naglis, 2023).

The persistence of Eurocentric, land-centric paradigms continues to sustain the coloniality of knowledge. Demands for material evidence—such as archaeological remains—to confirm traditional land occupation disregard constitutional protections and seek to delegitimize anthropological findings under claims of bias (Sampaio & Lima Júnior, 2023).

Assigning judicial functions to anthropological reports reflects a fundamental misunderstanding of their purpose. The ethical commitment between researchers and Indigenous communities does not invalidate scientific rigor but is crucial for ensuring land justice and combating legal discrimination.

South American Indigenous societies demonstrated high levels of cultural, linguistic, and political complexity long before European colonization. Simplistic classifications such as “bands,” “tribes,” and “chiefdoms” obscure this diversity. In the Amazon, although archaeological research remains limited, notable examples such as the Marajoara culture challenge reductionist views of precolonial history (Fausto, 2000).

Traditional knowledge systems—including the use of medicinal plants, and the roles of shamans and midwives—are essential to effective and culturally appropriate health care. Marginalizing these practices weakens health outcomes and increases vulnerability. Institutional incorporation of traditional medicine must avoid decontextualization and respect Indigenous epistemologies and worldviews (Trindade et al., 2025; Ferreira, 2013).

Alarmingly, suicide rates among Indigenous peoples—particularly young men—are significantly higher than the national average. Factors such as poverty, cultural dislocation, and loss of life purpose are key contributors.

Addressing this crisis requires culturally grounded prevention strategies developed with the active participation of Indigenous communities (Souza, 2020).

Environmental racism disproportionately affects Indigenous, Quilombola, and Black populations, particularly amid escalating climate crises. Although these communities are central to environmental preservation, they are routinely subjected to land invasions, state neglect, and systemic violence. The Time Frame Law, driven by agribusiness interests, further weakens legal protections by conditioning land rights on presence as of 1988, exacerbating deforestation, legal uncertainty, and territorial conflict. This context reflects the failure of public policy and sharpens the clash between fundamental rights and economic agendas (Thomasi, Santos & Dias, 2024; Portela, Menezes Júnior & Dutra e Silva, 2024).

Respect for human dignity—as enshrined in the Constitution and international instruments such as the UN Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169—requires both emergency measures and structural reforms grounded in environmental justice and participatory governance. These include tailored subsystems of social assistance, food sovereignty initiatives, and dedicated emergency budgets (Thomasi, Santos & Dias, 2024).

The Yanomami crisis represents a multidimensional emergency—humanitarian, environmental, political, and social—stemming from historical and structural violations. Since the 1980s, illegal gold mining has caused extensive environmental degradation, mercury contamination, disease outbreaks, and community disintegration (Basta, 2023; Barcellos & Saldanha, 2023; Costa, 2023; Rodrigues, 2024).

The Brazilian state bears direct responsibility for this crisis, whether through negligence or active dismantling of regulatory institutions and public health systems. Indigenous health has become a barometer of this collapse, marked by high rates of infection, malnutrition, and environmental exposure (Basta, 2023; Barcellos & Saldanha, 2023).

The rise of armed criminal networks and the state's loss of territorial control have intensified violence and insecurity. The absence of reliable data on health and environmental conditions hinders policy responses. This prolonged emergency demands urgent and multidimensional action, including the removal of invaders, ecological restoration, and the strengthening of Indigenous autonomy (Rodrigues, 2024; Basta, 2023).

The legal understanding of Indigenous land in Brazil has evolved amid historical tensions. Earlier constitutions offered only limited recognition of Indigenous land rights. The 1988 Constitution introduced the concept of traditional occupation, grounded in customary use and collective belonging. However, the 2009 *Raposa Serra do Sol* ruling marked a significant shift by endorsing the *time frame thesis*, departing from the long-standing *indigenato* doctrine (Cavalcante, 2016).

Although the demarcation of Indigenous lands is declaratory in nature, the process remains slow and heavily judicialized, resulting in so-called “paper territories.” Legal ambiguities undermine land protection, and proposals such as Constitutional Amendment Bill (PEC) No. 215 threaten hard-won progress. The case of the Nande Ru Marangatu Indigenous Land exemplifies the consequences of failing to enforce constitutional guarantees. In response, Indigenous mobilization and the defense of constitutional principles have become vital tools of resistance (Cavalcante, 2016).

The expansion of neoliberal policies and the intensified exploitation of natural resources have driven a surge in land invasions, supported by state alignment with agribusiness and mining sectors. Initiatives like the *time frame thesis* and PEC 215 seek to weaken Indigenous rights and restrict land recognition. Since 2016, increasing land concentration and the suspension of new demarcations have fueled conflict, prompting communities such as the Guarani and Kaiowá to engage in reoccupations as acts of resistance (Mondardo, 2022).

In this context, the State has been accused of endangering biodiversity and threatening Indigenous cosmopolitics. Resistance is not only territorial but also epistemological: Indigenous peoples have articulated ecological worldviews as counter-narratives to the neoliberal development model. Their struggle for land

embodies demands for social justice, cultural continuity, and ecological balance—an interwoven resistance to structural injustices (Mondardo, 2022).

The Yanomami have faced continuous violations since the construction of the BR-210 highway in the 1970s. Even after the official recognition of their territory in 1992, threats intensified, particularly between 2018 and 2022. This case underscored the Brazilian State's ineffectiveness and triggered intervention by the Inter-American Human Rights System, which issued critical recommendations for protecting Yanomami rights (Toledo, Di Benedetto & Bizawu, 2023; Bernardi & Roriz, 2023).

Although the Inter-American Commission did not formally alter its procedures, it expanded its impact through strategic reinterpretations and international pressure. The Yanomami case became a landmark in the global defense of Indigenous territorial rights, illustrating the power of transnational advocacy to promote institutional change, even in politically adverse domestic settings (Bernardi & Roriz, 2023).

Outcomes in Indigenous land demarcation processes vary according to levels of political mobilization and intragroup cohesion. Despite constitutional recognition, the absence of formal demarcation leaves these territories vulnerable to invasion and exclusion from public policies (Soares et al., 2024).

Rooted in colonial structures and later shaped by the 1988 Constitution and Decree No. 1775/1996, Indigenous territorial policy is influenced by factors such as social mobilization, political alliances, and administrative procedures. However, internal leadership cohesion emerges as the primary determinant of successful demarcation. Ultimately, the territorial struggle is a political one, and collective organization remains central to the effective realization of Indigenous rights (Soares et al., 2024).

## CONCLUSION

The historical and ongoing disputes over Indigenous lands in Brazil are deeply rooted in enduring colonial legacies that continue to shape institutional practices, public policies, and legal interpretations. This study reveals a fundamental contradiction: while the 1988 Federal Constitution recognizes the original rights of Indigenous peoples to traditionally occupied lands, the State simultaneously promotes legislative, judicial, and administrative measures that undermine those rights—most notably through the institutionalization of the “time frame” thesis.

Indigenous territorial claims are not merely about land ownership; they are integral to broader struggles for self-determination, cultural continuity, and environmental justice. These claims directly confront a development model grounded in extractivism, racialized exclusion, and legal coloniality—a model that perpetuates structural inequality and suppresses alternative ways of knowing and living.

Despite enduring systemic violence, judicial criminalization, and political setbacks, Indigenous peoples have asserted themselves as active political subjects. Through ethno-political mobilization, legal resistance, and strategic engagement with national and international institutions, they have reshaped debates around territoriality, pluralism, and democracy in Brazil. Organizations such as APIB, COIAB, and ARPINSUL exemplify the power of coordinated resistance, institutional advocacy, and the affirmation of Indigenous cosmopolitics.

This study concludes that true structural transformation demands more than isolated legal reforms or symbolic gestures of inclusion. It requires the decolonization of state institutions, the full enforcement of international human rights standards—such as ILO Convention No. 169—and the effective recognition of Indigenous peoples as co-authors of the national project. Embracing their experiences and epistemologies is essential to reimagining Brazil as a truly democratic and pluralistic society.

Moving forward calls for a collective reconfiguration of political priorities: ensuring the full demarcation and protection of Indigenous lands; repealing regressive legislation such as Law No. 14,701/2023; implementing intercultural and participatory public policies; and strengthening mechanisms for international oversight and

Indigenous protagonism. Only through such measures can Brazil begin to address historical injustices and build a future grounded in dignity, equity, and socio-environmental balance.

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