

Indigenous Genocide and the Pandemic: The Case of Brazil

By

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Dedication

To all those who died during the Covid-19 pandemic and who lost their families and loved ones due to the lack of responsibility of President Jair Messias Bolsonaro's government towards public health.

Personal Statement

I am a Brazilian physician who served on the front line during the Covid-19 pandemic and witnessed the disregard for public health orchestrated by the Bolsonaro government. My regrettable experiences as a practitioner in hospitals and health institutions could have largely been avoided had the government defended science and the country's public health system. Because of what I witnessed as a health professional, I understood that my role in protecting patients' right to health goes beyond medical practice and has become political, ideological and human rights activism. I hope this paper will bear fruit in penalizing those responsible for this tragedy in my country's public health.

Abstract

In April 2024, Brazil initiated a historic process of reparations for state-led injustices against Indigenous peoples. This process revisits key historical episodes of Indigenous genocide to promote memory, truth, and accountability. Drawing on contemporary definitions of genocide, encompassing both hot and cold forms, this article examines the longstanding cold genocide perpetrated by the State, highlighting flare-up moments of hot genocide. While cold genocide unfolds gradually through systemic neglect and structural violence, hot genocide manifests in direct, overt acts of mass killing and persecution. This study focuses primarily on the recent pandemic, during which the government exploited the health crisis to intensify the ongoing extermination of Indigenous populations. The analysis is grounded in a historical perspective and a detailed examination of the Pandemic Parliamentary Commission of Inquiry Final Report.

Keywords: Genocide; Indigenous health; Pandemic; Covid 19 pandemic

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List of Acronyms

1. Pandemic Parliamentary Commission of Inquiry: PPCI (*Comissão Parlamentar de Inquérito da Pandemia – CPI da Pandemia, in Portuguese*)
2. Pandemic Parliamentary Commission of Inquiry Final Report: PPCIFR
3. World Health Organization: WHO
4. Pan American Health Organization: PAHO
5. Non-Governmental Organization: NGO
6. Indian Protection Service: IPS (*Serviço de Proteção aos Índios – SPI, in Portuguese*)
7. National Indigenous Foundation: NIF (*Fundação Nacional dos Povos Indígenas - FUNAI, in Portuguese*)
8. Indigenous Health Secretariat: IHS (*Secretaria de Saúde Indígena – SESAI, in Portuguese*)
9. Federal Medical Board: FMB (*Conselho Federal de Medicina – CFM, in Portuguese*)
10. Brazilian Association of Community Health: BACH (*Associação Brasileira de Saúde Coletiva – ABRASCO, in Portuguese*)
11. Articulation of Indigenous Peoples of Brazil: AIPB (*Articulação dos Povos Indígenas do Brasil – APIB, in Portuguese*)

1. Introduction

Genocide is a crime defined by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which Brazil ratified in 1952. The legal framework criminalizes “acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.”¹ However, the exclusion of cultural genocide from the Genocide Convention has created a legal and interpretative gap that affects cases like Brazil’s. Initially proposed by Raphael Lemkin, the concept of cultural genocide was meant to include policies aimed at systematically eradicating a group’s identity, traditions, and way of life.² By excluding this dimension, the Genocide Convention limits accountability for crimes that do not involve mass killings but still contribute to the long-term destruction of a group. This omission allows states to carry out policies that gradually erode Indigenous existence without facing charges under the Convention.

This paper examines how Brazil’s historical and contemporary treatment of Indigenous populations aligns with the broader framework of genocide, particularly in the context of the Covid-19 pandemic. While mass killings and direct extermination have historically marked the genocide of Indigenous peoples, a more insidious and prolonged process, what contemporary scholars coined as cold genocide,³ has been a defining characteristic of Indigenous erasure in Brazil. The Covid-19 pandemic represents a crucial moment within this cycle, functioning as a flare-up of genocide in which systemic neglect and deliberate governmental policies significantly escalated Indigenous deaths. The research argues that state-led actions during the pandemic transformed an ongoing cold genocide into a period of acute, hot genocide.

By applying the hot and cold genocide framework, this study brings an innovative perspective to discussions of genocide, transitional justice, and human rights. Whereas previous analyses have focused on isolated instances of state violence or land dispossession, this paper contributes to the debate by demonstrating how the cyclical nature of colonial genocide in Brazil has persisted into modern times, culminating in the catastrophic effects of the Covid-19 pandemic. The study also critiques the limitations of existing legal definitions and argues for an expanded conceptualization of genocide to ensure that state-led extermination through neglect and policy failures is adequately addressed under international law.

¹ United Nations, “Convention on the Prevention and Punishment of the Crime of Genocide,” December 9, 1948, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

² Lemkin, Raphael, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress*. (Washington, D.C: Carnegie Endowment for International Peace., 1944).

³ Maung Zarni and Alice Cowley, “The Slow-Burning Genocide of Myanmar’s Rohingya,” *Washington International Law Journal* 23, no. 3 (June 1, 2014): 683, <https://digitalcommons.law.uw.edu/wilj/vol23/iss3/8>.

2. Methods

2.1 Study Design

This research employs a qualitative methodology, integrating historical analysis, legal critique, and a case study approach to examine genocide against Indigenous populations in Brazil. The study is structured to address the legal and historical dimensions of genocide, with particular emphasis on the Covid-19 pandemic as a catalyst within a broader cycle of violence and neglect. By applying the hot and cold genocide framework, the study seeks to illustrate how genocidal processes fluctuate between periods of overt violence and prolonged structural oppression.

2.2 Historical Analysis

A historical approach is essential to contextualize the Covid-19 pandemic within the continuum of state-led Indigenous genocide in Brazil. This section traces state policies and systemic neglect from colonization to the present, emphasizing how colonial mechanisms of dispossession, forced assimilation, and racialized public health policies persist. Primary and secondary historical sources, including government records, human rights reports, scholarly articles, and Indigenous organization publications, form the backbone of this analysis. By identifying patterns of state-led destruction, the research demonstrates how the Brazilian State has maintained genocidal structures over time.

2.3 Case Study Approach

The Covid-19 pandemic serves as a case study to analyze the intensification of genocide through state inaction and policy-driven harm. The research examines how governmental policies, misinformation campaigns, and the undermining of Indigenous healthcare systems contributed to increased mortality. The Pandemic Parliamentary Commission of Inquiry Final Report (PPCIFR) is the primary source, alongside legal documents and reports from Indigenous organizations. To ensure rigour, document selection criteria include:

- Direct relevance to Indigenous rights violations during the pandemic.
- Credibility of sources, prioritizing official state documents and verified reports from recognized human rights organizations.
- Corroboration across multiple sources, ensuring consistency in documented events.

2.4 Critical Legal Analysis

This section examines the legal frameworks governing genocide, particularly concerning the Genocide Convention (1948), the Rome Statute (1998), and Brazilian legal definitions. A critical component of this analysis is the debate over intent (*mens rea*) in genocide cases, assessing whether state actions meet the legal threshold of deliberate destruction. The research also evaluates how the exclusion of cultural genocide from international law impacts accountability for crimes against Indigenous populations.

Additionally, this study adopts the hot and cold genocide framework as a conceptual lens to analyze the Brazilian case. Kjell Anderson (2015) introduced this

framework to distinguish between two forms of genocide: hot genocide, characterized by direct, immediate acts of mass violence, and cold genocide, which unfolds gradually through systemic policies of neglect, exclusion, and structural oppression. This distinction is particularly relevant in assessing the longstanding persecution of Indigenous peoples in Brazil, where prolonged state-led dispossession and erasure have escalated during critical periods, such as the COVID-19 pandemic. Other scholars, such as Maung Zarni and Alice Cowley (2014), have also contributed to the conceptualization of slow-burning genocides, which align with the cold genocide model.

This study compares Anderson's hot and cold genocide framework with alternative theories of mass violence and human rights violations, highlighting its value in understanding the Brazilian case. By integrating these perspectives, the research provides a nuanced legal and theoretical foundation for evaluating state responsibility for the ongoing violence against Indigenous populations in Brazil.

2.5 Limitations of the Research

Although this study provides an in-depth assessment of genocide in the Brazilian context, certain limitations must be acknowledged:

- Reliance on secondary sources, particularly the PPCIFR, which may contain biases or omissions influenced by political constraints despite being a critical state document.
- Challenges in data collection, as official statistics on Indigenous mortality during the pandemic may underrepresent the accurate scale of deaths due to bureaucratic inefficiencies and systemic exclusion.
- Legal ambiguity in genocide interpretations, as courts and international bodies continue to grapple with how non-traditional, protracted forms of genocide should be classified under existing frameworks.

By combining historical and legal analyses, this research contributes to broader discussions on genocide, colonialism, and state accountability, offering a nuanced perspective on how the pandemic exacerbated an ongoing cycle of Indigenous genocide in Brazil.

3. Findings

Raphael Lemkin's initial definition of genocide diverged from the definition adopted by the Genocide Convention, prompting contemporary writers to engage in subsequent debates on less overt and prolonged forms of genocide. In 2014, Zarni and Cowley described a conceptual framework that closely aligns with what has later been termed hot and cold genocide. They defined large-scale killings and massacres as acts of direct, rapid, and massive violence leading to the immediate extermination of the target group, a concept that resembles what is now referred to as hot genocide. Additionally, they characterized prolonged structural destruction, including disenfranchisement, institutional discrimination, economic marginalization, and cultural eradication, as a slow, incremental process of annihilation, similar to the notion of cold genocide. While their work does not explicitly adopt Anderson's terminology, it presents a parallel framework

that contributes to understanding the varying temporal and structural dynamics of genocide.⁴

The concept of cold genocide can be highly relevant to analyzing the Brazilian case, especially when discussing the State's negligence in providing adequate medical, territorial and cultural assistance to Indigenous populations - forms of destruction that do not necessarily involve armed violence, but which can lead to the gradual extermination of these communities.

3.1 The Background to Indigenous Genocide in Brazil

The Brazilian State emerged under the light of the Doctrine of Discovery, which defined the territories it presented as a discovery of the Portuguese State through ideas based on European and Christian superiority over the other cultures, religions and ethnicities living there.⁵ This doctrine was the international legal basis for European domination over other peoples. The territorial occupation took place through the not-always-peaceful conquest of native territories for capitalist exploitation. The Doctrine of Discovery justified the seizure of Indigenous lands by declaring them unoccupied and giving the state possession, considering that the lands belonged to no one. Thus began the main form of Indigenous genocide in Brazil: land expropriation.⁶

The physical destruction of Indigenous peoples characterized Portuguese colonization. Wars of extermination were aimed at the expansion of livestock in the colonized territory and the discovery of mines. Indigenous peoples were killed, enslaved and subjected to Catholic missions with the implementation of a civilizing process that prohibited the use of the native languages and taught Portuguese in the settlements. With the establishment of local governments, a destructive policy of war against Indigenous peoples was instituted. In addition, Indigenous peoples were given clothes and blankets contaminated with diseases such as measles and smallpox in a programmed epidemic campaign that lasted until after Brazil's independence in the 19th century.⁷ After independence, extermination was financed by private companies but carried out with the support or approval of the state authority.⁸

At first, territorial expansion for cattle ranching took place mainly in the northeast of Brazil. In the 19th and 20th centuries, the expropriation of Indigenous lands took over the southeast and south of the country due to the industrial boom caused by coffee. Based on the clearing of virgin forests and the construction of railroads, the coffee boom led to the physical annihilation of the groups that resisted taking their land. Burning forests to cultivate coffee plantations was the leading cause of deforestation in the 19th century. The

⁴ Zarni and Cowley.

⁵ Telma Alencar, "Uncovering the Invisible: The Doctrine of Discovery, Its Impact on the Brazilian Indigenous Peoples, on the Environment and How It Continues to Shape the Brazilian Landscape Today," *ResearchGate*, March 14, 2023, https://www.researchgate.net/publication/369816945_Uncovering_the_Invisible_The_Doctrine_of_Discovery_its_Impact_on_the_Brazilian_Indigenous_Peoples_on_the_environment_and_how_it_continues_to_shape_the_Brazilian_landscape_today.

⁶ Karhen Lola Porfirio Will, *Genocídio Indígena No Brasil [Indigenous Genocide in Brazil]* (Coimbra - Portugal, 2014), 35,36.

⁷ Mércio Pereira Gomes, *Os índios e o Brasil: passado, presente e futuro [Indians and Brazil: past, present and future]* (São Paulo, SP: Editora Contexto, 2012).

⁸ Karhen Lola Porfirio Will, *Genocídio Indígena No Brasil [Indigenous Genocide in Brazil]*, 40–44.

coffee trade induced demographic growth, urbanization and industrialization, which led to an idea of economic expansion that placed Indigenous peoples as significant obstacles to progress.⁹

The 1824 Constitution mistakenly considered Indigenous peoples to be orphans, subject to the administration of their property by orphan judges. The 1891 Constitution entrusted state governments with the task of catechizing and civilizing the Indigenous, with the Ministry of Agriculture having the duty of developing and executing the program. It was a policy of integrating the Indigenous into white society with a loss of their cultural identity. In the early years of the 20th century, the Brazilian State engaged in violent policy discussions about Indigenous issues, allowing prejudiced conceptions to foment massacres. In 1908, the Brazilian State was exposed at the International Congress of Americanists for the massacre of Indigenous peoples. As a result, in 1910, the Indian Protection Service (IPS) was created as an agency under the Ministry of Agriculture, Industry, and Commerce, an incongruous decision, as it placed the responsibility for safeguarding Indigenous rights within a ministry focused on promoting development aligned with the interests of the ruling elite. The following Constitutions did not innovate in the Indigenous legal system. They focused on discussions about the right to land, ignoring the right to culture and the dignity of Indigenous peoples.¹⁰

In 1964, the dictatorship began in Brazil. Integrationist and developmentalist in outlook, Indigenous groups were to be quickly integrated as a reserve labour force or as producers of goods for Brazil's expanding regional economies and rural class structures, resulting in corruption and exploitation of Indigenous lands by officials from the Indigenous agencies. These practices became so recurrent that allegations in the press and by commissions of inquiry about IPS officials involved in violations of Indigenous rights prompted a crisis and the agency's dissolution, leading to the creation of the National Indigenous Foundation (NIF) in 1969.¹¹

Amid this crisis, the Ministry of the Interior established an Inquiry Commission, which ultimately issued the Figueiredo Report, a document that exposed widespread corruption within the Indian Protection Service and a series of crimes committed by its officials in collaboration with economic groups interested in Indigenous lands throughout the decades of 1940, 1950, 1960.¹² The report details nine categories of crimes, including administrative irregularities such as document falsification, accounting fraud, embezzlement of public funds, fraudulent administration, and willful omission. It also highlights crimes against Indigenous property, including the usurpation of labour, misappropriation and diversion of resources, illegal sales of cattle, timber, minerals, and nuts, as well as the criminal donation of lands for personal or third-party gain. Concerning crimes against Indigenous individuals, the report documents murder, torture, forced

⁹ José Antônio Souza de Deus and Henrique Moreira de Castro, "Abordagem Iconográfica dos Processos de Genocídio e Confinamento Territorial Indígenas Gerados pela Cafeicultura no Brasil [Iconographic Approach to the Processes of Indigenous Genocide and Territorial Confinement Generated by Coffee Growing in Brazil]," *Geographical Journal of Central America* 2, no. 47E (February 3, 2012), <https://www.revistas.una.ac.cr/index.php/geografica/article/view/2182>.

¹⁰ Karhen Lola Porfirio Will, *Genocídio Indígena No Brasil [Indigenous Genocide in Brazil]*, 103–5.

¹¹ Elena Guimaraes, "Relatório Figueiredo: Entre Tempos, Narrativas e Memórias [Figueiredo Report: Between Times, Narratives and Memories]," 2015, 35.

¹² Jader de Figueiredo Correia, "Relatório Figueiredo [The Figueiredo Report]" (Brazil: Ministério do Interior [Interior Ministry], 1967).

prostitution, enslavement, beatings, and other forms of physical abuse. Indigenous peoples were dehumanized and treated as mere labour resources, subjected to a regime of slavery, and denied the minimum living standards compatible with human dignity, resulting in widespread hunger, poverty, malnutrition, and disease. Far from fulfilling its mandate to protect Indigenous communities, the IPS became an agent of persecution and extermination, with numerous reports of massacres that were systematically ignored by the authorities.¹³

In 1973, the Indian Statute was created to regulate the legal situation of Indigenous people and communities.¹⁴ This normative instrument provided a definition of Indigenous people as childlike beings with incomplete and deficient mental development, who, therefore, required state protection.¹⁵

In 2012, the National Truth Commission was set up to investigate human rights violations that took place between 1946 and 1988, a period that includes the country's military dictatorship. The Commission's report shows that the violence was not limited to political groups that opposed the regime but also brutally affected marginalized communities, including Indigenous peoples, who were asserting their rights and striving for greater inclusion. The report identified the lack of recognition and demarcation of Indigenous territories as the root cause of these violations, attributing the deaths of at least 8,350 Indigenous people from the 10 ethnic groups studied to the Brazilian State's actions or omissions.¹⁶ During the dictatorship, the State aggressively expanded internal borders, establishing cities, highways, businesses, and agricultural and industrial infrastructure to exploit natural resources. For many Indigenous communities, this expansion brought devastation, misery, persecution, criminalization, imprisonment, torture, massacres, forced removals, cultural and social disruption, the suppression of languages and traditions, and the targeted killings of Indigenous leaders and community members defending their lands and rights. The National Truth Commission reframed the historical narrative by shifting the focus from colonial-era violence to the Brazilian State's role in persecuting Indigenous peoples. It underscored how the oppression they endured from the 1960s to the 1980s continues to shape the country's re-democratization process, influencing policies and struggles from the adoption of the 1988 Constitution to the present day.¹⁷

In 2007, a bill established the Temporal Framework, a legal theory according to which Indigenous peoples would only be entitled to the demarcation of their lands if they were in possession of the area on October 5, 1988, the date of the promulgation of the Federal Constitution. This thesis has been widely refuted since, before 1988, NIF and the IPS carried out various demarcation procedures to establish reserves, parks or other Indigenous areas without following a minimum parameter that respected the territoriality

¹³ Guimaraes, "RELATÓRIO FIGUEIREDO," 28, 61, 62, 63.

¹⁴ Presidency of the Republic, Civil Affairs Office, Legal Affairs Bureau, "Bill 6001" (1973), https://www.planalto.gov.br/ccivil_03/leis/l6001.htm.

¹⁵ Karhen Lola Porfirio Will, *Genocídio Indígena No Brasil [Indigenous Genocide in Brazil]*, 106.

¹⁶ Memórias da Ditadura, "Os Povos Indígenas e a Comissão Nacional da Verdade – Memórias da Ditadura [Indigenous Peoples and the National Truth Commission - Memories of the Dictatorship]," accessed February 26, 2025, <https://memoriasdaditadura.org.br/os-povos-indigenas-e-a-comissao-nacional-da-verdade/>.

¹⁷ Comissão Nacional da Verdade, *Relatório: textos temáticos [National Truth Commission Report]*, 2 vols. (Presidência da República, 2014).

of Indigenous peoples, their cultures and their ways of life. For a long time, there was a policy of confinement, which consisted of demarcating small areas, whether for housing or production, to free up space for agricultural expansion and economic exploitation of the regions of traditional occupation.¹⁸

The Temporal Framework Law is the subject of several lawsuits and legal discussions, contesting its constitutionality. In 2023, the National Congress approved the incorporation of the Temporal Framework thesis, and the law was later vetoed by the country's current President, Luís Inácio Lula da Silva. In 2024, a minister of the Superior Federal Court ordered the suspension of all legal proceedings that discuss the constitutionality of this law. Still, it has been criticized by the agricultural parliamentary front, which defends the thesis. Discussions on the approval of the Temporal Framework in Brazil continue to evolve.¹⁹

In 2016, yet another instrument of the State weakened public policies to protect Indigenous people, the 95th constitutional amendment bill, which severely reduced NIF's budget, allowing thousands of miners to return to Indigenous territories with weakened protection. Thanks to financial cutbacks, the federal government cancelled the delivery of basic food supplies to countless communities living in situations of vulnerability due to land tenure, which aggravated the problem of chronic malnutrition and famine.²⁰

3.2 The Pandemic as a Catalyst for Genocide

This brief historical analysis over the situation of Indigenous peoples in Brazil shows that when the pandemic began, Indigenous peoples were weakened by the centuries of violence they have endured since the colonization of the country. In the next section, I will present the government's acts and omissions during the pandemic to further discuss them as a catalyst for the ongoing genocide.

3.2.1 Veto to Law 14.021

The Law 14.021 of 2020, passed on July 7, rules that Indigenous peoples, *quilombola* communities and other traditional peoples are considered groups in a situation of extreme vulnerability and, therefore, at high risk for public health emergencies. The law provides welfare measures to prevent the spread of Covid-19 in Indigenous territories. Among the measures are a ban on denying health care or social assistance in

¹⁸ Indigenous Ministry, "Marco Temporal Volta à Pauta no STF; Entenda Porquê a Tese é Inconstitucional e Viola os Direitos dos Povos Indígenas [The Temporal Framework is Back; Understand Why the Thesis is Unconstitutional and Violates the Rights of Indigenous Peoples]," Fundação Nacional dos Povos Indígenas, 2024, <https://www.gov.br/funai/pt-br/assuntos/noticias/2024/marco-temporal-volta-a-pauta-no-stf-entenda-porque-a-tese-e-inconstitucional-e-viola-os-direitos-dos-povos-indigenas>.

¹⁹ Agência Senado, "Terras indígenas: Lula veta marco temporal aprovado pelo Congresso [Indigenous lands: Lula vetoes the Temporal Framework approved by Congress]," Senado Federal, 2023, <https://www12.senado.leg.br/noticias/materias/2023/10/23/terras-indigenas-lula-veta-marco-temporal-aprovado-pelo-congresso>.

²⁰ André Shalders, "FUNAI Suspende Atendimento e Famílias Indígenas Passam Fome No Mato Grosso Do Sul [FUNAI Suspends Services and Indigenous Families Are Starving in Mato Grosso Do Sul]," 2020, <https://noticias.uol.com.br/ultimas-noticias/bbc/2020/02/04/funai-suspende-atendimento-e-familias-indigenas-passam-fome-no-mato-grosso-do-sul.htm>.

the public network to Indigenous populations and the implementation of an emergency plan to combat Covid-19 in Indigenous territories.²¹

The text establishes access for communities to a list of services to be provided urgently and free of charge regularly by the public authorities. The executive authority vetoed six of them: universal access to drinking water; the free distribution of hygiene, cleaning and surface disinfection materials; the emergency provision of hospital beds and intensive care units; the purchase of critical care ventilators and blood oxygenation machines; the distribution of information materials on Covid-19; and internet access points in the settlements.²²

The law contains a specific chapter on food and nutrition security for Indigenous villages, *quilombola* communities, local fishermen and other traditional peoples during the pandemic. The Federal Government vetoed the paragraph that obliged the State to distribute food directly to families through food kits, seeds and agricultural tools; it also vetoed two provisions to give a ten-day deadline for drawing up a contingency plan for each situation of contact with isolated peoples. The Planalto Palace, the seat of government, blocked the preparation of a contingency plan to deal with outbreaks and epidemics in the areas. Another point in the bill establishes a specific emergency budget allocation to guarantee Indigenous health. However, President Bolsonaro vetoed the provision that determines the opening of extraordinary credits and the transfer of money to states and municipalities. The President also vetoed the inclusion of communities certified by official Indigenous bodies in a specific credit program for Indigenous peoples.²³

The Executive branch suppressed the point that obliges the State to pay for the law's services. According to the text, agreements can be signed with states and municipalities to implement the measures. The article establishing a specific funding mechanism for state governments and municipalities was also vetoed. The government argued that the text violates the Constitution by creating compulsory expenditures without demonstrating the respective budgetary and financial effects to justify the vetoes.²⁴

On August 19, 2020, the National Congress overturned the President's partial veto of the bill that determines protection measures for Indigenous communities during the Covid-19 pandemic. The House of Deputies held a remote session in which deputies voted to drop the veto, according to an agreement between congressional leaders and government representatives.

²¹ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," October 26, 2021, 609,610, <https://legis.senado.leg.br/comissoes/comissao?codcol=2441>.

²² Federal Senate, 609,610.

²³ Federal Senate, 610; Federal Senate, "Congresso derruba vetos de Bolsonaro à lei que protege indígenas na pandemia [Congress overturns Bolsonaro's vetoes of law protecting Indigenous people in the pandemic]," Senado Federal, August 19, 2020, <https://www12.senado.leg.br/noticias/materias/2020/08/19/congresso-derruba-vetos-de-bolsonaro-a-lei-que-protege-indigenas-na-pandemia>.

²⁴ Federal Senate, "Congresso derruba vetos de Bolsonaro à lei que protege indígenas na pandemia [Congress overturns Bolsonaro's vetoes of law protecting Indigenous people in the pandemic]."

3.2.2 The Law 8080, Welfare and the Erosion of Public Policies

Far from being excesses, the vetoed measures correspond to global health care requirements that have been recognized for decades in Law No. 8.080,²⁵ of September 19, 1990, whose article 19-F, refers to the Indigenous Health Care Subsystem, reading:

“The local reality and cultural specificities of Indigenous peoples must be taken into account, as well as the model to be adopted for Indigenous health care, which must be based on a differentiated and global approach, including aspects of health care, basic sanitation, nutrition, housing, the environment, land demarcation, health education and institutional integration.”

Land demarcation and environmental protection, among other elements, are expressly provided as aspects pertinent to Indigenous health. Still, the Federal Government has limited its action to social and health assistance, aggravated by the endorsement of an alleged early treatment as an alternative to effective preventive measures. The assistance is insufficient considering the provisions of Article 19-F of Law No. 8.080 of 1990, which requires a global and multifactorial perspective, including environmental and demarcation aspects that had been openly denied by the President of the Republic, his ministers and other subordinates in their respective areas of activity.²⁶

The Government Agency for Indigenous Peoples has defined the distribution of food packages as its only overall goal, taking on welfare as a government policy and thus, public policies built up over decades have been emptied. The PPCIFR shows that the government was willing to offer some assistance, such as food and the illusory protection of a so-called Covid kit (a combination of ineffective drugs) to avoid the accusation of deliberate negligence but resisted fulfilling its duty to guarantee fundamental and efficient aspects to prevent Covid-19 among Indigenous people, such as access to water and land protection. The PPCIFR highlights the need to reinstate land demarcation policies, social rights and territorial and environmental management.²⁷

The Federal Prosecutor’s Office issued a warning in April 2020 about the need for the Executive to adopt measures to protect Indigenous lands from the threat of Covid-19. Recognizing that viral respiratory diseases are historical vectors of genocide among these peoples, the Federal Prosecutor’s Office recommended that, in addition to providing food and hygiene products, the Executive should reinforce health teams and the hospital care network, promote conditions for communication and transportation of the sick, create strategies so that Indigenous people do not have to travel to access services and products and encourage territorial protection measures in all Indigenous lands identified or delimited, declared or homologated, to prevent invasions or remove invaders, especially illegal miners and loggers, to preclude Indigenous people from being infected with the new Coronavirus.²⁸

²⁵ Presidency of the Republic, “Bill 8080,” Pub. L. No. 8080 (1990), https://www.planalto.gov.br/ccivil_03/leis/l8080.htm.

²⁶ Federal Senate, “Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report],” 610,611.

²⁷ Federal Senate, 611.

²⁸ Federal Senate, 612; Renata Martins, “MPF recomenda medidas para proteger população Indígena da Covid-19 [Federal Public Prosecutor’s Office recommends measures to protect Indigenous population from Covid-19],” Agência Brasil, April 2, 2020,

The Ministry of Citizenship provided information to the PPCIFR showing that the pandemic was used to interrupt the pre-existing program that guarantees water supply to Indigenous lands. The President of NIF is said to have restricted entry to Indigenous lands for essential services, which would include those necessary for the survival of the community, such as health care, security, the delivery of foodstuffs, medicines and fuel, treating fuel as more important than water, ignoring the fact that water as an instrument of personal hygiene, in the context of the pandemic, is an essential factor in preventing contagion.²⁹

A criminal complaint filed on July 21, 2020, with the Federal Supreme Court against the President of the Republic refers to the refusal to supply water. In this procedure, the General Prosecutor's Office dismissed the possibility that crimes against Indigenous people had occurred because providing water would bring unforeseen expenses, omitting that the Ministry of Citizenship, under Onyx Lorenzoni, had interrupted the water supply program, for which there was approved funding. The General Prosecutor's Office did not even note that it would be enough to continue the already underway program, for which no new funds would be needed, and did not comment on the logically untenable pretext that water is unnecessary for life.³⁰

3.2.3 Land Protection

On August 16, 2019, President Bolsonaro declared that demarcated Indigenous lands hinder the country's economy because they obstruct the use of land for commercial production. Bolsonaro also emphasized that he would not demarcate Indigenous lands during his government and that the current demarcation of 14% of the national territory as an Indigenous area was enough.³¹

The PPCIFR shows that the delimitation of Indigenous lands is vital for establishing areas of care for Indigenous populations. It emphasizes the importance of this assistance extending beyond lands that have already been ratified because the President said he would not demarcate new lands, which would leave Indigenous people abandoned to their fate amid the pandemic, exposing them to the risk of extermination.³²

<https://agenciabrasil.ebc.com.br/radioagencia-nacional/direitos-humanos/audio/2020-04/mpf-recomenda-medidas-para-proteger-populacao>; Federal Public Prosecutor's Office, "Recomendação N° 11/2020-MPF [Recommendation No. 11/2020-MPF]," April 1, 2020, <chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/https://www.mpf.mp.br/df/sala-de-imprensa/docs/RecomendacaoSaudeIndigenaCOVID19.pdf>; Federal Public Prosecutor's Office, "Covid-19: MPF Recomenda Ações Emergenciais de Proteção à Saúde dos Povos Indígenas [Covid-19: Federal Public Prosecutor's Office Recommends Emergency Actions to Protect the Health of Indigenous Peoples]," April 2, 2020, <https://www.mpf.mp.br/df/sala-de-imprensa/noticias-df/covid-19-2013-mpf-recomenda-acoes-emergenciais-de-protecao-a-saude-dos-povos-indigenas>.

²⁹ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," 613,614.

³⁰ Federal Senate, 633.

³¹ Andreia Verdélio, "Bolsonaro diz que não fará demarcação de terras Indígenas [Bolsonaro says he will not proceed with demarcation of Indigenous lands]," Agência Brasil, August 16, 2019, <https://agenciabrasil.ebc.com.br/politica/noticia/2019-08/bolsonaro-diz-que-nao-fara-demarcacao-de-terras-indigenas>.

³² Senado Federal [Federal Senate], "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [(Final Report]," 618.

The PPCIFR lists assaults by illegal miners on Indigenous territories; attempts to regularize mining on Indigenous lands without prior consultation with those affected; paralysis of Indigenous land demarcation processes by the Ministry of Justice and NIF, which has been systematically acting against the legal protection of the territories; lack of action by the Federal Government to protect Indigenous populations during the Covid-19 pandemic; attempt to legalize developments on Indigenous lands and proposals to limit the concept of demarcated lands; murder of Indigenous leaders, violence against communities, deforestation and the dismantling of state bodies in charge of oversee government action and environmental protection.³³

3.2.4 Health Measures

a) Covid Kit

The implementation of ineffective measures against Covid-19 was one of the pillars of the approach adopted by the Federal Government against Brazil's Indigenous peoples. Documents analyzed by the Pandemic Parliamentary Commission of Inquiry (PPCI) revealed the distribution of ineffective drugs to Indigenous people, increasing the risk of infection due to carelessness, as the illusion that there is an available and safe cure leads people to abandon non-pharmacological prevention measures, such as hygiene, wearing a mask and social distancing. The medications chloroquine and azithromycin were distributed to Indigenous communities according to reports provided by the Indigenous Health Secretariat (IHS) for Covid-19 patients. These drugs were distributed together with other effective items to combat the disease, such as masks and gloves, even though the Pan American Health Organization and the World Health Organization had already warned about the lack of scientific evidence for the use of these drugs and alerted for side effects.³⁴

The documents also show that the Covid kit was used in all symptomatic cases, and ivermectin was distributed in all communities with confirmed cases. The Ministry of Health tried to evade responsibility and defended medical autonomy to indicate these treatments, even without scientific backing, using an opinion from the Federal Medical Board (FMB) as a basis, despite voluminous scientific evidence showing the ineffectiveness of these therapies. The Ministry of Health has denied that it favoured these practices. However, documents forwarded to the PPCI point to the purchase of 80,500 azithromycin tablets and 24,000 ivermectin tablets for Indigenous health districts.³⁵

³³ Federal Senate, 620, 629–31; Bárbara D'Ousaldo Oliveira Rafael, “Não há um único genocídio que não tenha sido precedido por discursos de ódio” [There isn't a single genocide that wasn't preceded by hate speech], *Agência Pública* (blog), August 3, 2021, <https://apublica.org/2021/08/nao-ha-um-unico-genocidio-que-nao-tenha-sido-precedido-por-discursos-de-odio/>.

³⁴ Federal Senate, “Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report],” 621; Fabrício Araújo, “Coordenador de Saúde contradiz governo federal e aponta uso de cloroquina para tratar Covid-19 em Indígenas de Roraima [Health coordinator contradicts federal government and points to use of chloroquine to treat Covid-19 in Indigenous people in Roraima],” G1, July 8, 2020, <https://g1.globo.com/rr/roraima/noticia/2020/07/08/coordenador-de-saude-contradiz-governo-federal-e-aponta-uso-de-cloroquina-para-tratar-covid-19-em-indigenas-de-roraima.ghtml>.

³⁵ Federal Senate, “Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report],” 622.

Although the official information on the distribution of these drugs is vague and mismatched, the PPCI concludes with the evidence collected that the Public Prosecutor's Office and the FMB were complacent and adopted a staunch defence of medical autonomy to the detriment of the vast consensus of scientific medicine that began to advise against the drugs used in the Covid kit in 2020 and exposed Indigenous health to avoidable risks.³⁶

b) Fake News

The government's defence of the Covid-19 kit is not the only way it has exposed Indigenous communities to avoidable risks. The rumours spread by the President of the Republic that the vaccine would harm health, change people's sex or turn them into alligators, however nonsensical they may be, gained strength and credibility lent by presidential authority.³⁷ The PPCI concludes that the President's supporters have spread these arguments across networks, reaching Indigenous communities via radio and messaging apps. There are records of religious leaders endorsing the speech, encouraging many Indigenous people, primarily converts, to reject immunization. There is abundant evidence that the chain of disinformation produced concrete results from the President of the Republic branching through Indigenous communities.³⁸

The PPCI draws a causal link when it points out that the arguments of the recalcitrant Indigenous people correspond precisely to statements by the President of the Republic against vaccination or against specific vaccines, which could constitute a dereliction of the State's duty to provide healthcare, in the particular case of Indigenous peoples, another element that demonstrates the intentional subjection of this group to conditions capable of causing their total or partial destruction.³⁹

c) Shortage of Vaccination Coverage

The PPCI shows that the Federal Government claims to have included Indigenous people in the priority vaccination group. Still, it is documented that it did so after a Court order, which it resisted because the initial plan was to vaccinate only those living on lands that had already been ratified, excluding 42% of Indigenous people who live outside these lands, a figure that can reach 90% in some states. The Federal Government's resistance to complying with the Court order has led to resistance to vaccinating Indigenous

³⁶ Federal Senate, 623,624.

³⁷ Beatriz Jucá, "Chip na Vacina, 'Virar Jacaré' e Outros Mitos Criam Pandemia de Desinformação na Luta Contra a Covid-19 [Chip in the Vaccine, 'Turning into an Alligator' and Other Myths Create Pandemic of Misinformation in the Fight against Covid-19]," *El País Brasil*, December 20, 2020, <https://brasil.elpais.com/brasil/2020-12-20/chip-na-vacina-virar-jacare-e-outros-mitos-criam-pandemia-de-desinformacao-na-luta-contra-a-covid-19.html>.

³⁸ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," 621,624; Internationaler Strafgerichtshof, ed., *Rome Statute of the International Criminal Court* (The Hague: International Criminal Court, 2011), 7, para 1, b; 2, b; Giulia Granchi, "Covid-19: os motivos que levaram indígenas a serem menos vacinados, apesar dos riscos maiores [The reasons why Indigenous people are less vaccinated against Covid-19, despite the higher risks]," *BBC News Brasil*, March 1, 2023, <https://www.bbc.com/portuguese/articles/c727170wz2vo>.

³⁹ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," 626.

communities at state and municipal levels, with local authorities ignoring the Court's decision to prioritize vaccinating Indigenous people living in urban areas.⁴⁰

In addition, the PPCIFR discusses a document provided by the Ministry of Health and IHS in response to a request for information, indicating that as of August 25, 2021, 558,245 vaccine doses had been administered to Indigenous people. However, the list includes several professionals for whom there is no information about the reason for vaccination. There is not enough information to certify that they are Indigenous, and they do not fit the concept of Indigenous residents adopted by the Ministry of Health itself. This same document contains more information that deserves to be highlighted: the small number of Covid-19 vaccines administered by IS's mobile teams, which does not reach 22,000 doses, i.e. enough for only one dose for less than 5% of the Indigenous population living in settlements; vaccination campaigns carried out by only seven Indigenous health districts and for short periods, usually less than 10 days, with no record of returning for second doses; and the inclusion of information on vaccinations carried out in 2020, without recommendation or possibility that they were Covid-19 vaccines, which were then unavailable in Brazil. The data provided by IHS shows little commitment to vaccinating Indigenous communities.⁴¹

d) Avoidable Exposure

Another concern analyzed by the PPCIFR regarding the exposure of Indigenous peoples to the virus is the existence of at least one documented case in which health workers were sent to Indigenous communities while infected with the virus. Notices from congresswoman Joenia Wapichana show that members of health teams were diagnosed with Covid-19 after entering the communities, not being tested before embarking, which resulted in a risk to the community, lack of care and a waste of public resources with the air transportation of these professionals.⁴²

e) Socio-environmental Vulnerabilities

A note from the working group on Indigenous health of the Brazilian Association of Community Health (BACH) presented to the Articulation of Indigenous Peoples of

⁴⁰ Federal Senate, 617; Federal Public Prosecutor's Office, "MPF Consegue Inclusão de Comunidade Indígena no Rol Prioritário de Vacinação Contra Covid-19 [Federal Public Prosecutor's Office Includes Indigenous community in Priority List for Covid-19 Vaccination]," December 16, 2022, <https://www.mpf.mp.br/pe/sala-de-imprensa/noticias-pe/mpf-consegue-inclusao-de-comunidade-indigena-no-rol-prioritario-de-vacinacao-contra-covid-19>; Supreme Court, "Barroso Homologa Parcialmente Plano Do Governo Federal Para Conter Covid-19 Entre Indígenas [Barroso Partially Approves Federal Government Plan to Contain Covid-19 among Indigenous People]," Supremo Tribunal Federal, March 16, 2021, <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=462365&ori=1>; Oswaldo Braga de Souza, "STF Obriga Governo a Priorizar Indígenas Urbanos em Vacinação, Mas Medida Ainda Tem Obstáculos [Federal Public Prosecutors Office Forces Government to Prioritize Urban Indigenous Peoples in Vaccination, but Measure Still Faces Obstacles]," ISA - Instituto Socioambiental, March 25, 2021, <https://site-antigo.socioambiental.org/pt-br/noticias-socioambientais/stf-obriga-governo-a-priorizar-indigenas-urbanos-em-vacinacao-mas-medida-ainda-tem-obstaculos>.

⁴¹ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," 628,629.

⁴² Federal Senate, 626.

Brazil shows a scenario of chronic malnutrition in children under 5 years of age, which acts synergistically with the appearance of epidemic outbreaks of malaria aggravated by the presence of mining operations on Indigenous lands, mainly affecting the health of children under 10 years of age. The presence of mines in traditional territories has raised the levels of mercury exposure and contamination in these populations, both for adults and children. Contaminated soil compromises the food sources of these communities. These factors form a set of socio-environmental vulnerabilities that negatively affect the health of Indigenous peoples in the context of the pandemic and can create conditions for worsening cases of Covid-19. BACH compares the pandemic scenario to the tragedy of the mining invasion on Yanomami land in 1987. At that time, 15-20% of the population was wiped out by disease transmission and starvation.⁴³

f) Insufficient Investment in Indigenous Health

Regarding the Federal Government's investment in Indigenous health, the PPCIFR points to data provided by the Ministry of Health showing that the total amount of the budget committed to Indigenous health in 2020 was R\$59.6 million, with extraordinary credits of R\$29.2 million being opened in 2021. Considering that there are approximately 900,000 Indigenous people in Brazil, these amounts seem to be very low, not reaching R\$100.00 (approximately 20 Canadian dollars) per person. In addition, there are reports that the execution of this budget is minimal, demonstrating carelessness.⁴⁴

The union's official budget statement from January to June 2021 concludes that there has been deliberate omission concerning Indigenous peoples, not only due to a budgetary stranglehold but also due to the non-execution of the budget allocated to it, evidenced by the slowness in spending the budget, which is especially worrying in the context of the pandemic.⁴⁵

⁴³ Federal Senate, 618, 629; ABRASCO, "Nota Técnica do Grupo de Trabalho em Saúde Indígena da Associação Brasileira de Saúde Coletiva (ABRASCO) apresentada para a Articulação dos Povos Indígenas do Brasil (APIB) no âmbito da Arguição por Descumprimento de Preceito Fundamental (ADPF) 709 [Technical Note from the Working Group on Indigenous Health of the Brazilian Association of Community Health (ABRASCO) presented to the Articulation of Indigenous Peoples of Brazil (APIB) in the context of the Argument for Failure to Comply with a Fundamental Principle (ADPF) 709]," May 17, 2021, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://abrasco.org.br/wp-content/uploads/2021/05/Nota-Tecnica-Abrasco-17-05-final-corrigida-1-1.pdf; Oneron A. Pithan, Ulisses E. C. Confalonieri, and Anastácio F. Morgado, "A Situação de Saúde Dos Índios Yanomámi: Diagnóstico a Partir Da Casa Do Índio de Boa Vista, Roraima, 1987 - 1989 [The Health Situation of the Yanomámi Indians: A Diagnosis Based on the Case of the Indian of Boa Vista, Roraima, 1987 - 1989]," *Cadernos de Saúde Pública* 7, no. 4 (December 1991): 563–80, <https://doi.org/10.1590/S0102-311X1991000400007>.

⁴⁴ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," 632; André Borges, "FUNAI usa só 1% da verba destinada ao combate à covid em povos Indígenas [FUNAI uses only 1% of the funds allocated to combating covid among Indigenous peoples]," July 21, 2021, <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2021/07/21/funai-executa-so-1-da-verba-anticovid.htm>.

⁴⁵ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," 616; Institute for Socio-Economic Studies, "Balanço Semestral Do Orçamento Geral Da União - Janeiro a Junho de 2021 [Half-Yearly Budget Statement January -June, 2021]" (Brasília, July 2021), chrome-

One of the outcomes of the poor investment in Indigenous health highlighted in a document offered by congresswoman Joenia Wapichana is that the lack of testing in the Cinta-Larga community led to the uncontrolled infection of Indigenous people and health workers, as it prevented the identification and isolation of those infected to avoid the spread of the disease.⁴⁶

The systematic negligence in public health measures, such as blocking emergency aid, failing to implement targeted protective strategies, and spreading misinformation about vaccines, did not simply result in passive neglect but actively exacerbated conditions of life calculated to bring about the physical destruction of Indigenous peoples. These actions align with the knowledge-based approach to genocidal intent, further discussed, wherein policies need not explicitly articulate a goal of extermination but can be understood as intentionally destructive through their foreseeable consequences. The predictable and disproportionate impact of Covid-19 on Indigenous communities, compounded by historical patterns of dispossession and structural violence, demonstrates how the State knowingly fostered conditions that led to increased mortality, impaired community resilience, and further entrenched systemic marginalization. Placing pandemic-related policies within the broader historical trajectory of Indigenous genocide in Brazil indicates that the crisis contributed to the intensification of an already ongoing process of structural and direct violence.

4. Discussion

4.1 Hot and Cold Genocide

Building on Kjell Anderson's 2015 analysis of genocide in West Papua,⁴⁷ this study applies the framework of hot and cold genocide to the historical trajectory of Indigenous genocide in Brazil. Anderson's work highlights how genocide does not always occur as sudden, large-scale massacres but can also take the form of prolonged structural violence that gradually erodes a group's existence. This distinction is essential for understanding how Indigenous genocide in Brazil has unfolded, not as an isolated event but as a continuous process with moments of intensified destruction.

This study further engages with the work of Timothy Snyder and Damien Short, whose analyses of slow genocide provide comparative frameworks for understanding protracted forms of group destruction. Snyder's examination of historical cases such as the Holodomor offers insights into how state policies can systematically create conditions that result in long-term mass suffering and demographic collapse.⁴⁸ Similarly, Short's research on Indigenous rights and environmental destruction demonstrates how structural marginalization and systemic oppression facilitate the gradual erasure of Indigenous communities.⁴⁹ By situating the Brazilian case within these broader theoretical

extension://efaidnbmnnnibpccajpcglclefindmkaj/https://inesc.org.br/wp-content/uploads/2021/07/BGU-1o-Semestre-2021_Versao-Final-1.pdf.

⁴⁶ Federal Senate, "Relatório Final Da Comissão Parlamentar de Inquérito Da Pandemia [Pandemic Parliamentary Commission of Inquiry Final Report]," 627.

⁴⁷ Kjell Anderson, "Colonialism and Cold Genocide: The Case of West Papua," *Genocide Studies and Prevention* 9, no. 2 (October 2015): 9–25, <https://doi.org/10.5038/1911-9933.9.2.1270>.

⁴⁸ Timothy Snyder, *Bloodlands*, First Edition (New York: Basic Books, 2016).

⁴⁹ Damien Short, *Redefining Genocide: Settler Colonialism, Social Death and Ecocide* (London, UK: Zed Books Ltd, 2016).

discussions, this study underscores the necessity of expanding genocide studies to account for both acute and enduring forms of genocidal violence.

The concept of hot genocide refers to moments of intense, direct violence, such as massacres, forced removals, and state-led extermination campaigns. In contrast, cold genocide operates through systemic oppression, economic marginalization, and policies that slowly dismantle the social, cultural, and physical existence of a group. Anderson's analysis of West Papua illustrates how genocide can transition between these forms, with periods of open violence followed by prolonged structural oppression.

In Brazil, this model helps explain the persistent cold genocide against Indigenous peoples, punctuated by episodes of hot genocide during key historical moments. The colonial period, marked by mass killings and violent land dispossession, represented an initial phase of hot genocide driven by territorial expansion and the suppression of Indigenous resistance. However, as colonial rule solidified, genocide did not simply transition from hot to cold; instead, both processes continued to operate simultaneously. While forced assimilation, economic exploitation, and the erosion of Indigenous lands and rights exemplify cold genocide, these structural forms of oppression have often coexisted with direct violence, ensuring the continued subjugation of Indigenous populations. The interplay between hot and cold genocide highlights how systemic and physical violence reinforce one another, demonstrating that Indigenous genocide in Brazil is not a linear process but an ongoing, multifaceted phenomenon.

This cycle continued into the 20th century, when policies under the dictatorship once again escalated into hot genocide, with direct killings, forced removals, and violent suppression of Indigenous communities. Between these peaks of hot genocide, the State maintained a genocidal structure through environmental destruction, legal barriers to land rights, and economic policies that undermined Indigenous survival.

The Covid-19 pandemic represents a recent flare-up of hot genocide, where the State's deliberate negligence and active policies exacerbated Indigenous vulnerability. The government's actions, such as blocking emergency aid, failing to provide healthcare support, and allowing illegal land invasions, transformed the pandemic into an opportunity to accelerate the ongoing cold genocide. By refusing to act, the State facilitated a crisis that disproportionately harmed Indigenous communities, illustrating how moments of acute violence emerge within a broader structure of long-term destruction.

Employing the framework of cold (slow) genocide, this study demonstrates that Indigenous genocide in Brazil is not a historical event but an evolving, persistent reality. Rather than a simple transition between hot and cold genocide, these modes of violence operate concurrently, with direct extermination reinforcing policies that systematically erode Indigenous survival. Recognizing this pattern is essential for moving beyond an episodic understanding of genocide and addressing the structural mechanisms that perpetuate it. Only by dismantling these enduring systems of oppression can meaningful accountability and reparative measures be achieved.

4.2 Intent to Destroy

The 1948 Genocide Convention, in Article II, defines genocide as “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group, causing serious bodily or mental harm, deliberately inflicting conditions of life calculated to bring about its physical destruction, imposing measures intended to prevent births, and forcibly transferring children.” For genocide to be established, two key elements must be present: the *actus reus* (prohibited acts) and the *mens rea* (specific intent or *dolus specialis*).⁵⁰ This legal framework is applied to assess the Brazilian State’s role in Indigenous genocide, using the knowledge-based approach to infer intent through state policies and systemic actions.

According to Joshua Marcus in *Intent to Destroy*, genocidal intent does not need to be explicitly stated; instead, it can be inferred from the pattern of state actions, policies, and omissions that knowingly lead to the destruction of a protected group. This aligns with the knowledge-based approach, which determines intent by assessing the foreseeable consequences of policies, the systematic nature of state actions, and the repetition of destructive patterns over time.⁵¹ As Kai Ambos (2009) argues in *What Does ‘Intent to Destroy’ in Genocide Mean?*,⁵² the intent requirement in genocide cases should not be confined to direct statements but can also be established through a perpetrator’s awareness that their actions will result in the destruction of a group. He emphasizes that knowledge of the consequences can suffice to demonstrate intent, even if no explicit declaration of genocidal purpose is made.

Additionally, the National Inquiry into Missing and Murdered Indigenous Women and Girls Report clarifies that states, as collective actors, can be held accountable for genocide when state policies result in the destruction of a group, even if no single individual explicitly expresses genocidal intent.⁵³ This reflects a broader principle in criminal law, where intent is routinely inferred from conduct rather than direct statements. In the case of Brazil, state policies have systematically created conditions that lead to the destruction of Indigenous peoples, making intent legally inferable based on the predictable and systematic nature of state-led actions and omissions.

The *actus reus* of genocide is identifiable in the historical and contemporary treatment of Indigenous peoples in Brazil. Killing members of the group was evident during the colonial and early republican periods, which saw massacres, violent territorial dispossession, and military campaigns aimed at Indigenous extermination. During the dictatorship (1964-1985), the Brazilian State engaged in direct killings and forced removals, leading to thousands of Indigenous deaths. More recently, the Covid-19 pandemic saw state-sanctioned negligence and obstruction of aid, leading to disproportionate Indigenous mortality rates. These events illustrate how an ongoing cold genocide has repeatedly intensified into hot genocide at moments of crisis.

⁵⁰ United Nations, “Convention on the Prevention and Punishment of the Crime of Genocide,” art. II.

⁵¹ Marcus, Joshua, “Intent to Destroy,” *Undergraduate Transitional Justice Review*, 2012.

⁵² Kai Ambos, “What Does ‘Intent to Destroy’ in Genocide Mean?,” *International Review of the Red Cross* (2005) 91, no. 876 (2009): 833–58, <https://doi.org/10.1017/S1816383110000056>.

⁵³ “National Inquiry into Missing and Murdered Indigenous Women and Girls. A Legal Analysis of Genocide: Supplementary Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls.,” 2019, https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report_Genocide.pdf.

Beyond direct killings, the Brazilian State has inflicted serious bodily and mental harm through forced displacements, exposure to violence, and environmental destruction, leading to psychological trauma and cultural disintegration. Moreover, the deliberate destruction of Indigenous lands has undermined Indigenous survival, constituting genocide under Article 6 (c) of the Rome Statute, which criminalizes acts that “deliberately inflict conditions of life calculated to bring about the physical destruction of a group in whole or in part.”⁵⁴ Land dispossession, environmental degradation, and economic marginalization have resulted in food and water insecurity, disease, and forced displacement, further eroding Indigenous communities’ ability to sustain themselves. The State’s failure to provide adequate healthcare and legal protections deprives Indigenous peoples of the means necessary for survival, reinforcing the structural conditions that contribute to their destruction.

Under the knowledge-based approach, intent can be inferred from state policies and their foreseeable consequences. Three key policies illustrate genocidal intent in Brazil. First, land and environmental policies have promoted agribusiness, illegal mining, and deforestation while systematically undermining Indigenous land rights. The State’s failure to enforce land protections demonstrates a deliberate disregard for Indigenous survival. Second, the Covid-19 response under the Bolsonaro administration intentionally increased Indigenous vulnerability by obstructing emergency aid, failing to implement protective measures, and refusing to provide vaccines in a timely manner. These actions constitute deliberately inflicting conditions of life intended to bring about the destruction of a group, as defined under international law.⁵⁵ The State’s decisions directly contributed to the increased mortality of Indigenous communities by exposing them to heightened risks of disease and lack of medical care. Lastly, the criminalization of Indigenous resistance, defunding of Indigenous agencies, and impunity for land invaders create an environment where Indigenous lives are continuously threatened. The State’s pattern of neglect and refusal to intervene in ongoing violence further reinforces genocidal intent, as it systematically imposes conditions that erode the physical and cultural survival of Indigenous peoples.

Even though genocidal intent is often associated with direct physical extermination, international legal frameworks and genocide scholarship increasingly recognize other forms of destruction, including cultural, economic, and environmental eradication. In the case of Brazil, state actions not only facilitated increased mortality rates but also systematically dismantled Indigenous ways of life by degrading their environment, eroding territorial rights, and fostering economic and social marginalization. This broader understanding aligns with the concept that intent in genocide cases must be assessed holistically, considering policies that inflict sustained harm even in the absence of immediate mass killings. Scholars such as Timothy Snyder and Damien Short have emphasized that genocide does not solely occur through direct physical violence but can unfold over time through policies that degrade a group’s ability to survive as a distinct entity. The Brazilian case underscores this interplay: while moments of hot genocide have included direct killings and targeted repression, the overarching process of cold genocide ensures that Indigenous communities remain

⁵⁴ Internationaler Strafgerichtshof, ed., *Rome Statute of the International Criminal Court* (The Hague: International Criminal Court, 2011), art. 6 (c); Internationaler Strafgerichtshof, ed., *Elements of Crimes* (The Hague: International Criminal Court, 2011).

⁵⁵ Internationaler Strafgerichtshof, *Rome Statute of the International Criminal Court*, 2011, art. 6 (c); Internationaler Strafgerichtshof, *Elements of Crimes*.

trapped in a cycle of vulnerability, displacement, and erasure. Expanding the legal and scholarly discourse to fully acknowledge these forms of destruction is essential for recognizing and addressing the multifaceted nature of state-led genocide.

This study finds that Indigenous genocide in Brazil constitutes both hot and cold genocide, sustained through state policies and deliberate neglect. The *actus reus* is evident in historical massacres, ongoing structural violence, and flare-ups of acute destruction (e.g., dictatorship, Covid-19). The *mens rea* can be established through state policies that knowingly and systematically facilitate Indigenous destruction, even in the absence of explicit statements of intent. This legal analysis demonstrates that the Brazilian State has historically and systematically engaged in genocidal practices against Indigenous peoples, making accountability and intervention under international law imperative.

5. Conclusion

The case of Indigenous genocide in Brazil underscores the urgent need to revisit and expand the 1948 Genocide Convention's definition to encompass cases that diverge from the Holocaust paradigm. The persistence of cold genocide, marked by systemic policies of dispossession, neglect, and structural violence, demonstrates how destruction can occur without mass killings but with the same intent to erase a group. The Covid-19 pandemic exemplifies a flare-up of hot genocide, where state actions and omissions used the virus as an opportunity to intensify pre-existing genocidal conditions. Legal analyses must move beyond explicit intent and incorporate the knowledge-based approach, recognizing state policies and systematic negligence as evidence of genocidal intent. Failing to adapt legal frameworks to account for these evolving forms of genocide risks perpetuating impunity and endangering the survival of Indigenous peoples worldwide.

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