

**LAW 11.645/08, THE TEACHING OF INDIGENOUS HISTORY AND THE FRAMEWORK  
TEMPORAL: A DECOLONIAL LOOK**  
LAW 11.645/08, THE TEACHING OF INDIGENOUS HISTORY AND THE TEMPORAL  
FRAMEWORK: A DECOLONIAL LOOK

Eduardo Gomes Da Silva Filho<sup>15</sup>

**Summary**

This text aims to discuss the changes that occurred in Brazilian educational legislation, which impacted the development of actions aimed at teaching indigenous History in Brazil, in the light of decolonial views and perspectives, with other contemporary issues of current legislation as a backdrop. which oppose the advances achieved by these laws, as in the case of Marco Temporal, a typical setback to the achievements of traditional peoples, with their resistance practices in the face of the excesses of the Brazilian State and the affront to their constitutional rights.

**Key words:** Teaching; Time Frame; Indigenous Resistance; Decolonial Look.

**Abstract**

This text aims to discuss the changes that have occurred in the Brazilian educational legislation, which impacted on the development of actions aimed at teaching indigenous history in Brazil, in the light of the decolonial perspectives and perspectives, taking as a backdrop, other contemporary issues of the current legislation that opposes the advances achieved by these laws, as in the case of Marco Temporal, a typical setback to the conquests of traditional peoples, with their practices of resistance in the face of the Brazilian State's excesses and the affront to their constitutional rights .

**Keywords:**Teaching; Temporal Landmark; Indigenous Resistance; Decolonial look.

**1. Introduction**

March 10, 2008, became a symbol of a new moment in the history teaching scenario, especially with regard to indigenous education. The advent of law 11,645 amended article 26-A of the National Education Guidelines and Bases Law nº 9,934/96, popularly known as LDB. From then on, it came into force with the following wording: "Art. 26-A. In public and private primary and secondary education establishments, the study of Afro-Brazilian and indigenous history and culture is mandatory."

The diversity provided by the implementation of the law enabled greater dialogue between the History of Africa, Africans and enslaved people, with indigenous History. However, we owe part of these advances to Law 10,639/2003, which had already made it mandatory at the beginning of the 2000s to teach African History in public establishments and

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<sup>15</sup>Professor at the Federal University of Roraima, Murupu Campus. PhD candidate in History from the Postgraduate Program in History at the Salgado de Oliveira University-PPGH/UNIVERSO.

individuals in the country. Regarding these advances, reflections and questions, Prof. Dr. Edson Silva analyzes:

Law No. 11,645, enacted in March/2008, which determined the inclusion in public and private Basic Education school curricula of the teaching of Afro-Brazilian and Indigenous History and Cultures, is part of a set of changes brought about by the mobilizations of the so-called civil society, social movements. These are achievements for the legal recognition of specific and differentiated rights in recent years, when we observe the sociopolitical organization in Brazil. In recent decades, therefore, in different political scenarios, social movements with different actors have conquered and occupied their spaces, demanding recognition and respect for sociodiversities (SILVA, 2017, p. 91-92).

It is clear from the author's speech that after the implementation of the law, significant advances were made by these people in social, educational and political contexts, mainly with the occupation of spaces that were previously historically denied. However, this text aims to provide an analysis more focused on the possible impacts on the teaching of indigenous history, having as a backdrop Law 11.645/08 and the harmful effects that may occur from PEC 215/00 called the Temporal Framework.

## **2 Theoretical foundation**

### **2.1 Funai, CIMI, MPF and opposition to the Temporal Framework**

In this regard, several entities and bodies spoke out against the PEC, as in the cases of Funai, CIMI and the Federal Public Ministry. In a technical note prepared by Funai, we can observe its position on the topic, let's see:

The National Indian Foundation - Funai publicly expresses its unrestricted opposition to PEC 215/00, which is being processed in the National Congress. This proposal represents a serious threat not only to indigenous rights, but to society as a whole, as it is unconstitutional in several aspects. PEC 215/00 proposes the transfer of responsibilities for the demarcation of indigenous lands from the Executive Branch to the Legislative Branch, disrespecting the 1988 Constitution, whose rights expressed there represent an achievement for all Brazilian people. In practice, this transfer means that the definition of the lands where indigenous people can exercise their right to physical and cultural permanence is subject to the political majorities of the occasion. We know that today this majority represents personal and financial interests and works to ensure that no indigenous land is demarcated, as was explicitly said by parliamentarians who are members of the Special Committee, which yesterday approved PEC 215/00. Furthermore, this proposal includes the possibility of leasing indigenous lands, which are Union assets and which, as a result, could be used for third-party profits, disrespecting the rights of all Brazilians. It provides that indigenous people are categorized between different stages of development and insertion in national society, confronting article 231 of the Magna Carta, which recognizes indigenous peoples' social organization, customs, languages, beliefs and

traditions, overcoming the logic of cultural guardianship, integration and assimilation (FUNAI TECHNICAL NOTE, 2021)<sup>16</sup>.

Corroborating this understanding, the Indigenous Missionary Council-CIMI, through legal advice, took an unfavorable stance on PEC 215, and released a note based on a request made to the Federal Supreme Court-STF, made by leaders of the Xokleng people, in regarding the suspension of the effects of an opinion made by the Comptroller General of the Union-CGU, still during the government of President Michel Temer:

In an important preliminary decision granted today (7), the Minister of the Federal Supreme Court (STF) Edson Fachin suspended the effects of Opinion 001/2017 of the Attorney General's Office (AGU) on all indigenous lands in Brazil. The measure now suspended determined the application of the time frame thesis and made the demarcation of a large part of traditional lands in the country unfeasible. Established under the government of Michel Temer in 2017, the "Anti-Demarcation Opinion" had been used by the Bolsonaro government to reverse demarcations of indigenous lands at an advanced stage and justify the abandonment, by Funai, of defending indigenous communities in legal proceedings. The preliminary decision, which must still be analyzed by the virtual plenary of the Supreme Court, results from a request made by the Xokleng people in the process of general repercussion on indigenous lands, with the support of several indigenous, indigenous and human rights organizations recognized in the process *as amicus curiae* (NOTE FROM CIMI LEGAL ADVISORY, 2020)<sup>17</sup>.

It is noted that even with the recent achievements in educational legislation, the advance of neoliberalism is still working hard on other fronts against traditional peoples. However, the topic also attracted the attention of the Federal Public Ministry, which reaffirmed the unconstitutionality of the Temporal Framework thesis, through a technical note prepared by the Chamber of Indigenous Populations and Traditional Communities of the MPF (6CCR).

These concerns that were expressed previously, seek to find solutions to try to reverse this "legal tortoise", which sets precedents for the devastation of traditionally occupied territories, through the actions of land grabbers, squatters and other agents linked to the interests of large landowners and agribusiness. , in addition to trying to absurdly mischaracterize the concept of ethnic identity, which are established anthropologically through self-identification, as recommended by Funai in line with ILO Convention No. 169 and the Indian Statute, the criteria adopted:

[...] are based on ILO Convention 169 on Indigenous and Tribal Peoples, fully promulgated in Brazil by Decree No. 5,051/2004, and the Indian Statute (Law 6,001/73). ILO Convention 169 on Indigenous and Tribal Peoples, fully promulgated in Brazil by Decree No. 5,051/2004, in its article 1 states that:

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<sup>16</sup>Available in: <http://www.funai.gov.br/index.php/comunicacao/noticias/3494-nota-da-funai-sobre-a-pec-215-00> . Accessed on: March 24, 2021.

<sup>17</sup>Available in: <https://cimi.org.br/2020/05/stf-suspende-parer-agu-marco-temporal-demarcacoes/> . Accessed on: 24. Mar. 2021).

1. This convention applies: a) to tribal peoples in independent countries, whose social, cultural and economic conditions distinguish them from other sectors of the national community, and who are governed, in whole or in part, by their own customs or traditions or by special legislation; b) to peoples in independent countries, considered indigenous because they descend from populations that inhabited the country or a geographic region belonging to the country at the time of conquest or colonization or the establishment of current state borders and who, whatever their legal status, maintain all or part of their own social, economic, cultural and political institutions. 2. Awareness of their indigenous or tribal identity must be considered as a fundamental criterion for determining the groups to which the provisions of this Convention apply. The Indian Statute (Law 6.001/73) defines, in its 3rd article, indigenous as: [...] every individual of pre-Columbian origin and ancestry who identifies and is identified as belonging to an ethnic group whose cultural characteristics distinguish it from national society. Thus, the criteria used consist of: a) self-declaration and awareness of their indigenous identity; b) in the recognition of this identity by the group of origin (FUNAI, CRITÉRIOS UTILIZADOS PARA IDENTIFICAÇÃO DE INDÍGENAS, 2021)<sup>18</sup>.

### 2.3 Decolonial Perspectives and Views

In general terms, decoloniality refers to the perspective of decolonial thinking, which seeks to reverse the capitalist and exploitative logic, rooted in our society from predatory colonial actions. Therefore, it allows us to go against the grain of this process, with the appreciation of the plurality of ideas, and the openness to listen to the voices that have been compulsorily silenced in Brazil for centuries.

It is from this scenario that new works are emerging, mainly with the resilience and theoretical-methodological deepening of teachers and researchers who are currently focusing on this topic. To this end, the work "Teaching Indigenous History and Intercultural Education: Decolonial Experiences in Perspective" (2020), organized by teachers: Eduardo Gomes da Silva Filho (UFRR), Fernando Roque Fernandes (UNIR) and Júlia Maria Corrêa Almeida (UFRR), stands out in this new historiographical context on the topic, as it brings texts that deal with Decolonial perspectives in their most diverse nuances. The preface was written by professor Mauro Cezar Coelho (UFPA), who contributed significantly from his experience in teaching indigenous history, especially the

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<sup>18</sup>Available in: <http://www.funai.gov.br/index.php/todos-ouvidoria/23-perguntas-frequentes/97-pergunta-3>. Accessed on: March 24, 2021.

Amazon, both at the undergraduate level and in the Postgraduate Program in History at the Federal University of Pará (UFPA), with innovative ideas based on the concepts and perspectives of decoloniality.

That said, other more detailed works served us as a basis for this analysis, the first of which is the Post-Doctoral Report of the Professor at the Federal University of Grande Dourados (UFGD), Prof. Dr. Thiago Leandro Vieira Cavalcante, developed with the Postgraduate Program at the State University of Maringá (UEM), under the guidance of Prof. Dr. Lúcio Tadeu Mota, with a supplementary text called: "Indigenous History in Brazil: historiography, decolonial criticism and contemporary perspectives".

In it, the author focused on the paradoxical analysis between coloniality and decoloniality, demonstrating in the text an ability to discern between both concepts, against the backdrop of historically constructed examples, in addition to theoretical references that provided them with due support.

In this sense, the author discusses the perspective of indigenous history in education, corroborating our proposed analysis in this text, based on the implementation of law 11.645/08. Let's see:

Since 2008, by virtue of Law 11,645 of March 10, 2008, the teaching of Indigenous History and Culture, in addition to Afro-Brazilian culture, has been made mandatory in basic education establishments – public and private – throughout Brazil. Motivated by this legislation, many History teacher training courses introduced subjects such as Indigenous History or Education for Ethnic-Racial Relations into their curricula. The publication of this law and the implementation of related curricular subjects in higher education courses for History teachers lead to some reflections. What was an achievement for indigenous movements also reveals that in the 21st century, Indigenous History and Culture continue to be neglected both in the curricular organization of basic education and in the curricular organization of undergraduate History courses. So much so that the most common reaction to the legislation on the part of basic education teachers was to claim incompetence to deal with the subject, since they did not receive such training during their initial training. In other words, History, as an area, remained for a long time at least complicit with the narratives that made indigenous peoples invisible in national history (CAVALCANTE, 2019, p. 34-35).

Entering more specifically into the field of decolonial thought and indigenous history, the author helped us understand its beginnings, as we can see in the epigraph:

Decolonial thinking, although similar to those previously mentioned, is a perspective that emerged in the Americas, thought, above all, by Latin Americans who experience the reality of the continent. [...] The decolonization of History, and more specifically of Indigenous History, implies thinking about our problems based on experiences and epistemes that break with Eurocentric dictates and, above all, that break with any theoretical or political perspective of a universalizing nature, is I need diversity to be not only respected, but also de-hierarchized (CAVALCANTE, 2019, p. 49).

## 2.4 Indigenous voices, protagonism and demands from decolonial perspectives in the light of legal instruments

Many voices linked to the contemporary indigenous movement, based on decolonial thinking, have been echoing in search of being heard by the surrounding society. Among them, we can highlight: Ailton Krenak, Daniel Munduruku, Gersem Baniwa, Joenia Wapichana, Cacique Raoni, David Kopenawa, Sônia Guajajara, Casé Angatu Xukuru Tupinambá and Jacir de Souza Macuxi, among others.

These leaders stand out in the most diverse areas of society, such as Literature, History, Anthropology, Literature, in addition to political activity. The agendas defended revolve around the defense of traditional peoples, starting from the preservation of their rights, conquered and guaranteed by the Federal Constitution of 1988, in particular, in articles 231 and 232. (CF/88, Art. 231, 232).

Without a doubt, the Federal Constitution of 1988 is a true landmark in terms of advancing the rights of traditional peoples in Brazil, surpassing the assimilationist and tutelary perspective left by the 1973 Indian Statute. In this regard, the legal framework of Brazilian indigenous policy warns:

Despite protecting indigenous uses, customs and traditions, guaranteeing permanent possession of the lands they inhabit and the exclusive enjoyment of natural resources, the Indian Statute was approved in the context of an assimilationist ideological vision, that is, with the proposal of "integrate" indigenous people into a supposedly homogeneous national communion, when it is known that Brazilian society is complex and plural. In other words, to be a Brazilian citizen with full rights, the indigenous person would have to stop being indigenous (MARCO LEGAL DA POLÍTICA INDIGENISTA BRASILEIRA, 2010, p. 32).

The resonance of these voices is echoed in the actions of the Attorney General's Office (AGU) and the Federal Public Ministry (MPF), which play a vitally important role in defending the rights of these people. Linked to this, the leading role that the indigenous leaders mentioned in this text - in addition to many others throughout Brazil -, play alongside their ethnic groups, and, consequently, their traditionally occupied territories, stands out.

### **Final considerations**

With this text, we only aim to raise some points relevant to the discussions of the proposed themes. Some proposals sensitive to the Brazilian indigenous cause were taken into consideration, especially with regard to the teaching of indigenous history, having

as a basis for Law 11,645/08, criticism of the Temporal Framework, in addition to the different perspectives of decolonial perspectives.

Added to this, an important addendum was made to the text, exalting indigenous protagonism, based on a brief presentation of contemporary leaders, as well as the legal instruments applicable in the fight for the rights of these peoples. However, the text does not intend to present ready-made concepts, but only to discuss them and provoke reflections in readers who are looking for information regarding the table's proposal.

I hope that even in a brief and succinct way, I have contributed in some way to this, by indicating possible paths that will lead readers to knowledge.

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