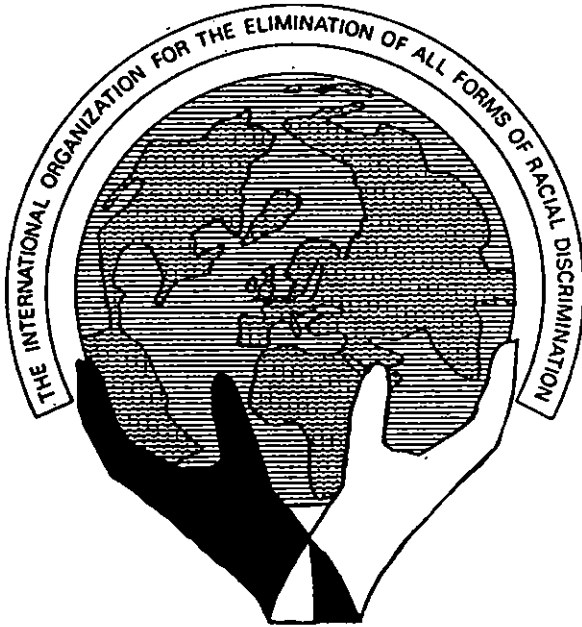


**NEW TRENDS IN BRAZILIAN INDIAN
AFFAIRS**
by
PROFESSOR ROQUE de BARROS LARAIA



**THE INTERNATIONAL ORGANISATION
FOR THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION
(EAFORD)**

Published by
The International Organisation for the Elimination
of All Forms of Racial Discrimination
(EAFORD)
January 1985

Printed by The Signal Press, London SE1, UK. 1985

The views expressed in this Paper are those of the authors, and do not necessarily represent those of EAFORD.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Universal Declaration of Human Rights

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UNIVERSIDADE DE BRASÍLIA

The integration of native populations has been a matter of concern practically since the early history of relations between Indians and Whites in Brazil. The concept of integration, however, incorporates several meanings. In the sixteenth century, it meant redemption of Indians by means of religion, that is, the wiping out of tribal beliefs and their replacement by foreign doctrines. Despite the changes that have occurred in the behaviour of religious missions in the last few centuries, it is still possible to find missionaries who use the concept of integration with the same meaning it had in the sixteenth century.

The creation of the “Serviço de Proteção aos Índios” (Indian Protection Service) in 1910 gave rise to the ideal of “incorporating the Indian into the national community”. At first, attempts were made to transform the Indians into farmers, an easily acceptable attitude for the positivist mentality, taking for granted that for a steady evolution leading to a higher stage of development to take place, simply removing the obstacles imposed by the exploitation to which they were being submitted would be sufficient (cf. Ribeiro: 1962:133). Then there came other phases like the one developed under the administration of Gama Malcher, who tried to improve the lot of the Indians through formal education. After the 1960s, basically with the creation of the National Foundation of the Indian in 1967, there occurred repeated attempts to integrate the Indian by means of work. The failure of this policy can be explained by the difference that existed between the Indian’s notion of work and that of the protection service, which, among other things, regarded as illegitimate any kind of subsistence labour.

In the 1970s, the “developmentalist” ideology came to regard the Indian as an obstacle to national development, an obstacle which should be removed as soon as possible. The radical methods suggested by Von Ihering at the beginning of the century were no longer adequate and were replaced by

attempts – based on magical procedures – to integrate certain groups in a short period of time. At the end of the decade, FUNAI, pressed by the Ministry of the Interior, tried to consolidate integration by means of an institutional process: the Emancipation Bill.⁽¹⁾ The reactions provoked by the draft of this bill carried it into oblivion, but this did not mean that some sectors of FUNAI had given up their goals. Thus, at the beginning of the 1980s we witness a new form of “emancipation” by means of a document which would deny a considerable part of the native population its own ethnic identity: the criteria of “Indianhood”. This document – which justified itself in pseudo-scientific language, making use of ideas current at the end of the nineteenth century, met a strong reaction from the scientific community, and also was officially filed. But it has been unofficially used by FUNAI experts to deny the conditions of Indians to members of certain groups, as in the recent case of the Tupiniquim.

Hence, the concept of integration had been widely discussed and, to a large extent, manipulated by those who, under different and even antagonistic approaches, have an interest of any sort in the density of our native populations. For some, integration means a form of ethnocentric aggression against small human groups. For others, it represents a magical formula for solving the problems arising from the existence of conflicting cultural systems in the same territory. And for still others, it expresses an alternative to assimilation or extinction – given the apparent infeasibility of continuing isolated existence as a tribal society, or of the evolution to any type of micronation with political and economic autonomy.

Brazilian Indian affairs are currently faced with new trends that can only be understood when we consider two important facts that took place in the 1970s. The first one was the creation of the Assemblies of Indian Chiefs. The second was the reaction to the Emancipation Bill that the Government tried to pass in 1978. The anthropological community promptly opposed it and for the first time since the beginning of the century succeeded in mobilizing public opinion in favour of the Indian cause. It is true that this time anthropologists were not alone. The action of CIMI – the Indian Missionary Council – was very significant, as was the simultaneous creation of lay associations for support to the Indian cause, such as National Association of Indian support (ANAI) and the Pro-Indians. The common action of these segments of national society succeeded, as we have said, in killing the bill, despite semantic manoeuvring that involved the anthropological community in a very disturbing situation. Exactly when women were struggling for their emancipation, when workers were demanding autonomy for their unions and civilian society

itself was trying to occupy new political spaces, it seemed unusual for a group of social scientists to join a minuscule segment of our society in opposing Indian emancipation. Nevertheless, it was possible to show that an official act hidden behind generous language could mean, in fact, abandoning the Indians "to infinitely more powerful forces that would wipe out their lands in the short run and would transform them into cheap labour". Protests were listened to and the Government filed the bill.

The first Assembly of Indian Chiefs met in April, 1974, in Diamantino, State of Mato Grosso. It was followed by the Assemblies of Cururu, Meruri, and many others. The importance of such meetings lay in the fact that for the first time Indian leaders belonging to different groups raised their voices to analyse the situation of the Indian community, and demanded measures to ensure the continuity of tribal life. It also lay in the fact that it gave rise to a new Indian leadership capable of mediating – without traditional intermediaries, such as missionaries, anthropologists, etc. – the relations between their societies and national society.

The first reactions to these Assemblies were simplistic allegations that they were only events forged by CIMI, in which the Indians were nothing but puppets. These allegations overvalued the role of that missionary organisation. The real participation of CIMI was to create conditions for the appearance of channels of communication between the representatives of different Indian groups and between them and the national community. On the other hand, it is not possible to ignore the fact that true leaders are not created artificially. They are the result of a given moment in history. This moment arose when, as had happened long before in the United States, tribal communities showed their preference for chiefs who could understand the world of the white man. For instance, among the Suruis, a Tupi group from South-eastern Para State, the rigid system of hereditary leadership was laid aside and Amaxu was made chief. His capability to negotiate with whites had been demonstrated in the delicate period in which the group was involved in a war between soldiers and guerrillas.

These new leaders are not expected to set up movements of revitalization such as the "Dance of Spirits"⁽²⁾ or Messianic movements such as those led by the Timbiras, intended to transform Indians into whites and whites into Indians. Nor was it intended to lead their peoples, as did the ancient Tupi Shama⁽³⁾, to strenuous pilgrimage in search of the "Land Without Evil". On the contrary, what was demanded from them was the capacity of dialoguing with the white man and of struggling for their tribal needs with white man's weapons (substituting the tape-recorder for the rattle, for instance).

This is the reason why the Assembly of Indian Chiefs must be regarded as a milestone in the history of the Brazilian Indian, rather than being short-sightedly considered as subversive native activities.

In addition, the Assemblies are proof that Indians can govern themselves. Self-government is based on the capacity of making diagnoses. No one can plan the future of any task if he cannot identify the problems that afflict him in the present. This capacity can be tested when we analyse the proceedings of one of the Assemblies, chosen arbitrarily among so many others: the Xth, which met in August, 1977, in Tapirapé Village.

All the thirty speeches made on that occasion regarded the question of land defence as the main problem of the group and of Indians in general. Hence the greatest demand was for the demarcation of boundaries. The Indians know – and so do we – that this is the crucial point of the question.

Since the reference to defence of indigenous lands is already a commonplace in every Indian action, however, we prefer to consider other topics discussed at the Xth Assembly: Tsuedsi, representative of the Xavante Indians, showed his concern about white paternalism and the acceptance of this paternalism by Indians: “We defend ourselves with work,” said he, “and if there is no work, there is no power.” The impunity of murderers was the main concern of the Bororos present. Other speakers referred to the right to maintain their traditional religious practices, and others complained about the destruction of the forests resulting from predatory action by Whites. Finally, manifestations were made of solidarity and ethnic pride, having as their point of departure the conscious assumption by the participants of the label “Indian”, created by the white man. Instead of the negative stereotype with which Whites have imbued this label, however, “Indian” has come to mean for them the common denominator among the various aboriginal nations, as was made explicit by Xangrê, representative of the Kaingang: “When I am far from Indians, I am not happy, I have no shelter, I don’t feel at home. But if there is an Indian village, even if I don’t know the language . . . even so, we are brothers, we are of the same blood.”

The presentation of these few examples is intended to show that the participants in these Assemblies are entirely conscious of their problems, in a patent demonstration of the capacity of these small nations to produce leaders capable of guiding them along their paths.

Having considered these two important events of the 1970s, we reach the 1980s, which began with the conviction on the part of the anthropological community that it will only be possible to defend the interests of the indi-

genous communities with the support of the legal institutions. It was exactly during this period that Mario Juruna⁽⁴⁾ gained notoriety when he brought suit before the Federal Supreme Court and won an action against the FUNAI's decision to forbid him to participate in the Bertrand Russel Court in Holland.

An important event for the establishment of a new Indian action strategy was the "Indians and the Law" Conference, co-organized by the Graduate Program in Social Sciences of the Federal University of Santa Catarina and Cultural Survival, in October, 1980. 26 anthropologists, 10 lawyers, as well as observers from FUNAI and from some native communities participated in this meeting, which resulted in the publication of a volume that uses an interdisciplinary approach to the Indian question, focussing on it from the points of view of law and anthropology.

It is a fact that, four decades before the Florianópolis⁽⁵⁾ meeting, the position of the Indian before the law deserved the attention of a renowned Brazilian jurist, Rodrigo Otavio, who published *Os Selvagens Americanos Perante o Direito (American Savages and the Law)* (Brasiliiana, vol. 254. Companhia Editora Nacional, São Paulo, 1946). In the following year (1947), the National Council for Indian Protection published the "Collection of laws, acts and memorials relevant to Brazilian Indians, compiled by administrative officer Humberto de Oliveira". And if we go back to 1913, we find that during the debates on the Civil Code, in the House of Representatives, several parliamentarians took the floor to discuss the problem of Indians before the law. Hence it is necessary to realize that this concern is not a new one, appearing only in the 1980s. The recent discussions, however, have some special features.

What seems new to us in the present endeavours is the attempt to better understand the legal resources available for the formulation of a new strategy for Indian action. It is no longer possible to be content with mere manifestations of protest against acts detrimental to Indian interests. These protests do not always have practical results and, in general, they are rapidly forgotten. The important thing is to study the possibility of using legal instruments capable of nullifying offences, such as the suit brought against the invasion of Pataxó lands. Indian leaders little by little are learning that there is no other way to defend their legitimate interests than the recourse to legal action.

In this new phase of Indian history old topics are re-examined in a new light. We shall end this paper listing some of these topics, presently looked at from an interdisciplinary focus.

First is the question of access to national citizenship by Indians. In reality, such access has always been possible, as no mechanism of apartheid exists in Brazilian law. In Pedro Agostinho's view (1982), the integration⁽⁶⁾ referred to in the Indian Law should mean the full exercise of civil rights without the loss of the status of Indian. Here integration receives not only sociological, but also a legal definition. An extreme example of this situation is Mario Juruna, who presently enjoys one of the highest privileges allowed by Civil Law, without ceasing to be an Indian or becoming an "acculturated exotic". His position as Congressman does not correspond to an act of emancipation, for emancipation under the existing law is possible only with the expressed manifestation of will⁽⁷⁾ by the interested party, which did not occur. Furthermore, it did not have to occur, as the law does not require a choice between his two identities.

A discussion of citizenship, however, cannot be kept separate from a review of the concept of "relative incapacity" or that of an official institution for Indian "guardianship". Both concepts have been more often used to curb the freedom of the Indian than to protect his interests. Several authors have demonstrated that these legal instruments and greater autonomy to native communities are not incompatible. Criticism is directed to the rigid interpretation that FUNAI has given to these instruments. The autonomy claimed by the Indians runs the gamut from the right to be represented to that of mere movement, as an Indian from the South expressed, complaining about the fact that the head of his Indian Post forbids the Indians to leave the village without authorization. To move to another village the Indians have to obtain a transfer licence and even to take a walk they have to have written permission – in short, a regime similar to the one in force in South Africa. Such a procedure is a result of the generalization of the rules imposed by FUNAI. Measures that can be useful to protect an isolated group in the phase of early contact are useless and even ridiculous in the case of Kaingang and Xokleng.⁽⁸⁾

One by-product of the discussion on citizenship is undoubtedly the need for a comprehensive analysis of the extension of the criminal liability of the Indian who has opted for urban life.

Another important matter is that of the relationship which must exist between Indian societies and the Brazilian State. Despite the verbal games played by those who are interested in hiding fundamental aspects of the question, indigenous societies do constitute small nations. Their existence, however, does not constitute any kind of threat to national sovereignty. In the modern world, they depend on the guarantees the State can provide

them. This is a reason why Roberto Cardoso de Oliveira (1979) suggested that the ideal thing would be for FUNAI to stand for the "Foundation of Indian Nationalities". When such a reading becomes possible, internal colonialism will have been replaced by an internal diplomacy. Such an approach is supported by an ever-growing acceptance of the existence *de facto* of a multiethnic, plurinational, and much more real State than the still current concept of the problematic existence of a monolithic State.

Here inevitably one returns to the problem of Indian lands. These lands can no longer be treated only as real estate, but rather as the inalienable territory of a people, the theatre for a unique historic and cultural experience rather than as an ecological habitat. For the occupants, the land has a sacred character which makes it impossible to substitute one area for another. Within this subject many lesser questions can be subsumed, among them the nature of the rights of the Indians over the natural resources in their territories. This is an important theme because very often have Indians been removed from their lands to facilitate the white man's access to natural resources.

These examples show that anthropology and law have a vast area for co-operation with respect to Indian action.

To repeat once again, we are certain that the concept of integration can take on other meanings and we hope that, as a result of interdisciplinary effort, a new concept may arise – more relevant to the reality of the interests of the native communities.

(*) Presented at Symposium "Anthropology and Social Policy in Brazil", XI International Congress of Anthropological and Ethnological Sciences, Quebec, Canada, 1983.

(**) Member of EAFORD's Consultative Council.

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FOOTNOTES

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(1) Emancipation, in the official language, means to withdraw the tutelage of the State, transforming the Indians into common citizens, subject to the law of the national society which, in many of its provisions, is contrary to their traditional customs. The Emancipation Bill, behind a provision that is apparently generous, hides a dangerous snare: as soon as the Indians community were emancipated it would lose the right to its tribal lands which would no longer be a collective possession, but transformed into private properties that could be sold. The approval of this Bill would mean the rapid extinction of many indigenous groups. Note, however, that individual emancipation was already anticipated in the Indian Law, as we point out in footnote 6.

5

(2) The Dance of Spirit was a religious movement of the North American Plains Indians, at the end of the last century, that aimed to extinguish the domination of the white-people through magic-religious means. The old order would be re-established, the buffalos would become abundant again and the white-people would all be dead. Among Brazilian Indians various messianic movements have occurred, some of which consisted in waiting for a Messiah, that is, a man pre destined, with supernatural powers, capable of saving his people from the white domination.

5

(3) Many indigenous societies of the Tupi language have shamans, that is, a type of priest capable of entering in contact with supernatural beings, and, through these, bringing about cures for ill people. Several of these shamans lead their people in long marches in search of the Land without Evil, a kind of earthly paradise.

7

(4) Mario Juruna, an Indian of the Xavante tribe (situated in the State of Mato Grosso) became known to the public at large in the decade of the 70's, when he appeared armed with a tape recorder to record the promises of the white-people, that were usually not kept. In 1982 he was elected as a federal deputy. This is the first time in the history of Brazil that an Indian has a seat in the National Congress. It is very significant that his electors are from the State of Rio de Janeiro, situated in the most urbanized region of the country.

7

(5) Florianopolis is the capital of the State of Santa Catarina. The local University has a tradition of struggle in favour of Indians. The meeting referred to is the same as that of preceding paragraph.

8

(6) According to article 3° of Indian Law, Indians are integrated "when incorporated in the national community and recognized in the full exercise of their their civil rights, although they preserve practices, customs and traditions that are characteristic of their cultures". Despite the law, FUNAI frequently refuses to recognize the Indians status of those who participate intensively in the life of national society, using the naive assertion that they are no longer Indians.

8

(7) The articles 9° and 10° of the Indian Law establish that any Indian may request in writing his desire to be free of the tutelage of the State. This is possible when the applicant is over 21 years of age, shows a knowledge of the Portuguese language and ability to perform a useful activity. Note that this is an individual emancipation and not of the whole community as that aimed for by the Emancipation Bill.

8

(8) Kaingang and Xokleng are two indigenous tribes of the south of Brazil, situated exactly in the most developed regions of the country. Their villages are spread over the States of Paraná, Santa Catarina and Rio Grande do Sul. Due to the long contact with white-people, the Kaingang and Xoleng participate intensively in many activities of the national society. They have mechanized agriculture, attend schools, and some of them work in urban activities. For this reason, it is ridiculous that FUNAI wants to control their lives in the same way that it does with isolated groups of Amazonia.

NOTE

On 20 September 1984, the BBC World Service News Broadcast transmitted the following news item from San Paulo:

The President of the Brazilian Indian Affairs Bureau, Funai, has been dismissed and replaced by federal police superintendent Nelson Marabuto. The sacked President Jurandy Da Fonseca had refused to agree to a government decree allowing private mining companies into Indian reserves saying he did not want to be accused of genocide.

Senor Fonseca had only been in the post for four months and during that time he had taken several important steps to protect Indian reserves and supported tribes fighting to stop roads being built through their land or oil companies prospecting inside their areas. His dismissal came after he refused to agree to a government decision giving permission to private mining companies to prospect and mine within Indian reserves. Over two-thousand applications for mining licences, including many from multi-national companies, have already been made. Senor Fonseca said then that he didn't want to go down in history as responsible for genocide. After his dismissal he said "I believe that the moment the mining companies go into the Indian areas the Indians will die and the Brazilian government will be responsible for their deaths." There are an estimated two-hundred-thousand Indians in Brazil and many of their reserves, especially in the Greater Amazon region, contain valuable deposits of tin, gold, uranium and other precious metals. Miners have already entered many reserves illegally and disease, de-segregation and violence have followed. Señor Fonseca's replacement by a police superintendent with no specialist knowledge of Indian affairs, is seen as the result of pressure by the mining companies anxious to get access to Indian lands in case the change of government in a few months' time brings about a change in policy.

JAN ROCHA IN SÃO PAULO.

Concerned about the effects of these new measures on the life and culture of the Amazonians, the President of EAFORD addressed the following cable to the President of Brazil, and requested other NGOs to act:

We were greatly disturbed by the decision of the Brazilian government to grant permission to companies to prospect and mine within Indian reserves and by the decision to dismiss the President of FUNAI because of his objections. We urge Your Excellency to intervene to rescind those two decisions or at least to ensure, in full consultation with the Indian community, that effective and humanitarian measures are taken for the protection of their rights, their culture and way of life before any prospecting or mining activities are carried out.

Respectfully yours,
Abdullah Sharafeddin
President
EAFORD

26/9/84

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