

# Indigenous children and adolescents in an anthropological perspective: rethinking intercultural ethical conflicts

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## Abstract

### Indigenous children and adolescents in an anthropological perspective: Rethinking about intercultural ethical conflicts

This article presents anthropological approaches about the cultural reality of indigenous children and adolescents and their differentiated cultural rights in Brazil. The aim is to outline the anthropological perspective on different representations that indigenous people have on children and youth, as well as the social problems faced by them, in order to discuss about the ethical conflicts and the attempts to legislate such issues in Brazil. The article also emphasizes the way how issues related to child labor, poverty and infanticide among indigenous people suffer distortions as they are targeted by non-indigenous universalistic morality from a Christian influence. It also points out how some initiatives are starting to appear in anthropology and bioethics fields, in order to interfere in practices considered morally wrong, although accepted by indigenous populations.

**Key Words:** Human rights. Youth. Health of indigenous peoples. Bioethics.

## Resumo

Este artigo apresenta abordagens antropológicas a realidade cultural de crianças e adolescentes indígenas e seus direitos culturais diferenciados no Brasil, voltando-se as recentes tentativas de regulamentação. Objetiva explicitar a perspectiva antropológica sobre as representações diferenciadas que os povos indígenas possuem acerca das crianças e adolescentes e os problemas sociais enfrentados por estas, de modo a problematizar os conflitos éticos interculturais e as suas tentativas de normatização em projetos de lei. Também enfatiza como temas relacionados ao trabalho infantil, a pobreza e ao infanticídio entre populações indígenas sofrem distorções ao serem objetivados pela moralidade não indígena universalista e cristianizada. Aponta, por fim, como nos âmbitos antropológico e da bioética surgem iniciativas de intervenção sobre práticas consideradas moralmente recrimináveis, mas que têm sido aceitas pelas populações indígenas.

**Palavras-chave:** Direitos humanos. Juventude. Saúde dos povos indígenas. Bioética.

## Resumen

### Los niños y adolescentes indígenas en la perspectiva antropológica: repensando conflictos éticos interculturales y los intentos de regulación

Este artículo presenta los enfoques antropológicos a la realidad cultural de los niños y adolescentes indígenas y sus derechos culturales diferenciados en Brasil, dedicándose a las recientes tentativas de reglamentación. El objetivo es explicitar la perspectiva antropológica sobre las diferentes representaciones que los pueblos indígenas poseen sobre los niños y adolescentes y los problemas sociales con que se enfrentan, con el fin de discutir los conflictos éticos interculturales y los intentos de crear normas en proyectos de ley en Brasil. El artículo también hace hincapié en como las cuestiones relacionadas con el trabajo infantil, la pobreza y el infanticidio entre los pueblos indígenas sufren distorsiones en la moral universalista y cristianizada. Por otro lado, señala como surgen en la antropología y la bioética iniciativas de intervención en las prácticas indígenas que se consideran moralmente pasibles de recriminación pero que han sido aceptadas por los pueblos indígenas.

**Palabras-clave:** Derechos humanos. Juventud. Salud de los pueblos indígenas. Bioética.

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Seeking to equip the discussion on bioethics about the cultural reality of indigenous peoples in Brazil, this article adopts the anthropological perspective to visualize the importance of recognizing different cultural rights of these people, specifically considering the problems facing children and adolescents. The different representations that indigenous people have about these age groups and the social problems they face illustrate and demonstrate intercultural ethnic conflict between these people and the society surrounding them. Such conflicts cannot be discussed without a clear understanding of the cultural and social context of indigenous peoples, under penalty of enlarging unequal rights from an ethnocentric perspective: *This ethnocentrism (...) is responsible for the behavior of decontextualization, simplification of demands and generalization of the needs of individuals and their communities*<sup>1</sup>.

The article is not an extensive literature review, but it seeks in the framework of anthropological relativism to interpret values different from those of the national society, against which indigenous peoples find themselves subsumed. Neither is a review on legislation, existing or in development, focusing on indigenous children and adolescents. A brief introduction to the anthropology of indigenous children and adolescents will be sought in order to guide discussions currently presented to indigenous public policymakers and other stakeholders in legal and legislative realms, as well as to scholars in the field of bioethics, currently focused on the analysis of the social dimension as a factor inducing to their life and health conditions<sup>2,3</sup>. The text considers issues such as child labor, infanticide, and adoption of children in indigenous communities.

## Method

The empirical data that the arguments raised in this article were obtained in the research Formulation of policies for indigenous children and adolescents and capacity-building of operators of the Rights Guarantee System, held in 2010 by the Center for Indigenous Studies and Research (Cinep), funded by the Human Rights

Secretariat (SEDH), under the scope of the National Council of Children and Adolescent (Conanda). Participating as a senior consultant on this project enabled the direct observation of inter-ethnic, intertribal, and inter-gender and inter-generational discussions, promoted with indigenous leaders and representatives in seminars focused on the formulation of public policies to promote indigenous children and adolescents' rights. As it is a follow up work, the data from that study may not be cited herein directly without the permission of Cinep/SEDH/Conanda, except those resulting from work published by their authors. In this sense, it will be described the context for data collection and data will be used for the development of alternative arguments.

There were six workshops on Rights and Policies for Indigenous Children and Adolescents, - two at national level, held in Brasilia, and four regional workshops in Curitiba, Cuiaba, Manaus and Recife -motivated by the increasing concern of indigenous peoples, civil society and other government agencies to formulate policies for the implementation of human rights of children and adolescents in Brazilian society and its suitability to the multiple cultural realities, interethnic and socioeconomic conditions of indigenous children and adolescents.

The main motivation for the project was the lack of right counselors and custodial over the indigenous realities. In a survey conducted in 2006 along with community councils<sup>4</sup>, 75% of respondents said they did not know what happens in indigenous areas. This statement revealed the need to train counselors in the face of indigenous realities and especially, entering the indigenous perspectives on the violation of human rights of their children and adolescents in the Ten Year Plan for Human Rights of Children and Adolescents 2011-2020 (DCA)<sup>5</sup>.

The meetings were designed as workshops conducive guidelines for dissemination and discussion of the topic with the peoples and indigenous movements. The methodology included workshops organized from the invitation to indigenous leaders, students and indigenous

researchers, academics and policymakers, and advocates of indigenous rights of children and adolescents - to contribute for the establishment of specific goals and guidelines for indigenous children and adolescents in the national policy of full protection and human rights of children and adolescents in the Brazilian State.

The seminars were planned and carried out in conjunction with various indigenous organizations and representatives of 46 groups of indigenous peoples from all regions of the country (Tables 1 and 2), as well as municipal, state and federal government agencies.

Each seminar consisted in presentation sessions, conducted by researchers, indigenous and experts in the field of public policy and defense of indigenous rights of children and adolescents. At the end of the presentations occurred workshops or group discussions consisting of representatives of different indigenous peoples, organizations, ages and genders. At the end of the meeting, were presented in plenary the systematized results of each discussion.

The results were complemented by partial data from surveys, in questionnaire with closed and open questions on the perceptions of indigenous leaders (members of organizations and traditional leaders) about the social problems and demands of children and adolescents of their respective peoples. In total, 89 questionnaires were returned: 35 from the Northeast, 28 from the Midwest and 26 from the South/Southeast.

This methodology, which combined workshops with questionnaires, aimed at ensuring symmetric conditions for the inter-tribal and interethnic dialogue<sup>6</sup>, as well as dialogue between men and women - adults, seniors, children and young people - providing a unique experience for indigenous reflection with academic dialogue around the problems of children and adolescents.

Despite its arguments and interpretations, then, in accordance with the experience of coordinating the above mentioned research, interpretations of data and impressions arising from participation in the seminars should be credited solely to the author and do not express

the position in whole or in part of mentioned organizations or their participants. The full data, in particular the statements, opinions and indigenous criticism about rights and government policies for children and adolescents, should be obtained by contacting the Cinesp / SDEH / Conanda<sup>7</sup> team and they will not be subject to review at this time. Thus, we chose to enhance the experience of monitoring the research to identify issues relevant to the implementation of rights and policies for indigenous children and adolescents today, in the light of anthropological studies and critical bioethics, feminist-inspired, and intervention bioethics.

### Relativizing the idea of childhood and adolescence

According to the analysis of results made by Farias and Juliao, master in Social Sciences and Pankararu indigenous, respectively: (...) Indian leaders realize that there are serious problems in their everyday children and youth. The absence of policies to protect the rights of children and adolescents was highlighted. We found cases of consumption of licit and illicit drugs especially among teenagers, violence committed against several children and also child sexual exploitation and child prostitution. Despite the small number of respondents, close to the total of indigenous peoples in Brazil, the data indicate serious problems that deserve a deeper investigation and action with indigenous peoples. The perception of the leaders present at the regional workshops held is that, despite the problems currently faced by indigenous children and youngsters, the State has shown to be absent or inefficient in many situations. There is a gap between public policy and indigenous demands. There are insufficient public policies and excessive demands<sup>8</sup>.

The objective definition of these results, however, does not misrepresent the first and most striking lesson learned in the seminars, supported by analysis of the questionnaires: the fact that the questions directed to adults about children and adolescents or about the specific

problems faced by them, make little sense. Strangeness caused in several indigenous interlocutors the question about "children" and "adolescents" as if they had problems to those faced by the rest of the villages on the effects of interethnic relations: hunger, malnutrition, lack of access to land, interpersonal and institutional violence by the surrounding society, alcoholism, among others.

This aspect of the indigenous perception of social problems, as seen by their leaders, corroborated by ethnological studies, indicate that indigenous children and adolescents would not be differentiated subject to adult and classified separately, as in our society. Although there are for many people to "age classes" and "rites of passage into puberty," the cultures of many of them do not conceive what the non Indians call "infancy" or "teens," legally defined by age range.

The point to be emphasized is that from the cosmologies of indigenous of different ethnic groups the "children" and "teens" tend to be perceived as individuals with changing bodies, like all other persons and bodies.<sup>9</sup> Therefore, their opinions and their own perspectives on the world should be taken as those of all other beings, regarded their ontologies<sup>10</sup>. In short, they are beings who make and change the world, like everyone else<sup>11</sup>. They are autonomous subjects in separate bodies, but that from his point of view involved, intervene and modify substantially the cultures to which they belong. For many indigenous cultures, there is no reason to highlight these subjects to the detriment of other subjects and issues problematized by these people back to the social dimension, which therefore, must be the object of anthropological investigation, although directed at a specific segment<sup>12</sup>.

From this lesson emerges a new area of research in anthropology, dedicated to the anthropology of children and adolescents rather than the "childhood" or "teens" generalized, as if they were universal stages of human societies. In this line, "childhood" or "teens" persist only when conjugated in the plural, "childhood" and "teens", inducing to realize that the physical changes

of human beings are connoted in a culturally variable.

The questions that anthropologists seek to answer in this field is relate to the prospects that children and teenagers have of the world that they live in, the places they inhabit and the relations and relationships that are constantly made between people, being and things in their ongoing process of humanization, which means much more than simple physiological and psychological "growth".

The book *Indigenous children: anthropological essays* summarizes the anthropological questions to Brazilian indigenous children as follows: how do Brazilian indigenous children live? From playing, what your interests are, how do you fill up your time, (what do they learn and how do they do it?)<sup>10</sup> In this context, and to place the challenge of implementing rights and policies for indigenous children and adolescents with peoples from their regulations that they are often strange, one should also ask: who participates in their lives beyond their families? How do they affect and are affected by them? What makes them and by them? How conditions are provided to indigenous children and adolescents to become full persons in their societies, as they are in contact with other controlling societies?

With these questions in mind, one anthropological perspective on indigenous children and adolescents is constructed and the results are both surprising and relevant to their life. Surprising because they are disassembled preconceived ideas about these generations, particularly those who tend to idealize children and adolescents as "incomplete beings," "immature," "passive," "weak" or "poorly articulated" - as etymologically suggests the term "childhood" (inability to speak). Relevant because other adjectives such as "creativity," "speed," "plasticity," "vitality" etc.. are incorporated into the vocabulary of adults to describe children and adolescents and their actions, practices and interventions in reality. These results point to ways of bioethical reflection, indicating that the application of provisions aimed at ensuring the human rights of specific groups and segments cannot ignore its essential particulars.

### Child labor

The book of Lopes da Silva recalls the "small shamans" of the Xavante people from Central Brazil. His recollections, recorded on field observations suggest this new perspective: The little girl and her twisted in the shade, in the field. Her tiny basket. Perched on top of the tree, works. Around her, the riparian forest that borders the river and fields of corn, rice, banana, watermelon, cassava (...), where her parents worked recently. Now, they rest, after a brief meal, she also makes. Singing and talking with those who are on the mat under the trees, she weaves tiny strands of fine vegetable fiber, which gradually take shape. Her basket, her work, her toy, her play, her learning. All this in a time and action capsule, by determination and pace themselves: playing-experience-work-out-learn, in one experiment, a single moment (Ritu wawé Xavante village, indigenous land Parabubure, 1977)<sup>13</sup>.

Faced with such scenes, the anthropology of child support on the wider lessons of indigenous ethnology to interpret the play-work-study, described above, as part of the cultural experience that the most diverse indigenous people provide for their younger members. This process follows logically distinct from that of non-Indians, Ramos explains how:

*As the economic sphere interpenetrated by other dimensions of life in indigenous societies, the notion of work for them is not the same of societies said complex, or Western. In the process of economic production, whether it is hunting, fishing, gathering, farming or otherwise, the employee does not isolate themselves from their other roles and obligations. In production are always present social, ritual, religious considerations, to name the most common and obvious. There is not, therefore, the phenomenon of 'alienation', which is one of the most striking features of the process of industrial work. On the assembly line of a plant is irrelevant whether a worker is planning a wedding for his daughter, if his wife is about to give birth, if he is assiduous in his religious obligations, if has obeyed the moral standards of his society.*

*While worker working in the factory, he is reduced to his immediate use, it is merely necessary part of the production process. This breakdown of the worker in economic producer, on the one hand, and in social being, on the other, this short sale, does not exist in indigenous societies<sup>14</sup>.*

The understanding of anthropologists about this other way to produce and work leads the author to conclude: the worker in indigenous society is not compartmentalized, it is a total social being in all spheres of its life<sup>14</sup>. Valid claim for children and adolescents, also extends to women, elderly, etc.

It is noteworthy to recognize, as well as indigenous people apply in their everyday towns and villages the same sense of care and protection provided for in Article 4 of ECA: It is the duty of family, community, society at large, and the government to ensure, with absolute priority, the realization of the rights to life, health, food, education, sports, leisure, professional training, culture, dignity, respect, freedom and family and community coexistence<sup>15</sup>.

All of these dimensions and spheres of life can be inferred from everyday indigenous families in their relationship with children and adolescents. Indigenous people have, accordingly, their own statutes of children and adolescents, according to which it would be wrong to see in the work of Xavante girl a form of exploitation. For these indigenous activities of each individual are part of the dynamics of the community.

However, the idea of "exploitation of child labor" has been shaping the perception of many council members, including indigenous, who uncritically apply the terms of the ECA to remove children from their families, on the grounds that they would be at risk or vulnerability. This issue was reported in virtually all seminars and workshops held in the project of CINEP / SEDH / Conanda. Fact that led the participants to require greater disclosure of the authorities of the rights of indigenous peoples for State employees at the federal, state and municipal council members in particular, even indigenous.

Upon such realization, marked by principles, values and concepts of white society, Ferreira's study<sup>16</sup> points out situations that can be connoted as interpretive distortion. What was seen by council members as undue exposure of children Guarani-Mbya to mendicancy it was the point of view of Mbya-Guarani mothers, to keep children with them in constant learning on how to learn strengths and resources from the world outside the village. But what about the children's point of view?

Among the Guarani of village Itaoca, in Monguaguá, southern coast of Sao Paulo, for example, Ferreira<sup>16</sup> found in children's play the projection of the misery to which indigenous families are submitted. This adverse situation is not due to their culture, but the indifference and bad public services offered by the whites. It must consider that the term "white" refers to a category of ethnic classification used by indigenous, on the people who are not part of his people. As reported by Ferreira:

*One morning in April 1999, children Joacir, Edson and Angelina played the 'ambulance'. Lying in a banana leaf 'lay' Joacir, of three years and only ten pounds - when should weigh a minimum of fourteen pounds. Joacir was 'very ill' according to 'medical' Angelina, five years, which should impose upon him an 'injection'. Joacir pretended to cry. The 'driver' Edson, of eight years, ran pulling the banana leaf around the shaman grandfather's house, making the sound of a siren. For Mariano Tupan Mirim, which translated some expressions used by children, it was just a *nhe waga*, joking: 'They are going to the hospital because the boy is sick. As a fact, sometimes the ambulance comes and takes patients to seek admission in Monguagua. If the patient is not seriously ill, the doctor gives an injection and sends him back to the village. If he is bad, sends admitted. That's it.' A conversation with Edson, however, revealed details of the dramatic situation. Showed that the joke was not mere fantasy, but a scenario of how children interpret the constant pilgrimage to emergency wards and hospitals in the region. Edson said: "If he does not go to the hospital, he dies. But when he goes, he dies too. So bury in the cemetery soon'.*

Children played under the impact of the death of Adilson da Silva, fourteen months, their little cousin. died of malnutrition and dehydration in the Municipal Hospital of Monguaguá after three days of internship<sup>16</sup>.

Importantly, the strong contrasts between the two ethnographic scenes described. The first is made possible by the autonomy and vitality of uses, costumes and traditions of Xavante, secured by resistance to the occupation of their lands and the consequent territorial security arising from the regularization of Indigenous Land Parabubure. This particular historical situation<sup>17</sup> of the Xavante allows them to enjoy the relative power of decision on their fate. The second scene is marked by social disruption arising from centuries of expropriation of traditional lands of the Guarani in Mato Grosso do Sul, Argentina and Paraguay, forcing them to adopt more disadvantageous arrangements for survival, such as informal crafts sales, slave labor, garbage collection, intermarriage with non-Indians, abandonment of family, migration and messianism, in a very different context of power distribution<sup>17</sup> between indigenous and non indigenous, in defining indigenous destinations. They are descendants from centuries of colonial violence surviving today in poor living conditions, without territorial protection and adequate public services.

What the anthropological perspective on children and adolescents enables us to conclude before two such disparate cases is the interpretive capacity of children about their own conditions of existence or historical situation. Conditions change, the games and practices vary, but the character remains fully and not simulated of their thoughts and actions within their local culture. From the Xavante girl, we learned how: When creating new objects and new games, in the management of old materials and old techniques to produce objects, the tension between 'tradition' and 'innovation', the children work materials that is the flow of history of her people<sup>13</sup>. From the Guarani children, we realize that: *The playful activities of children show that the apparent tragic design and melancholic from world may well be 'a very subtle mixture of hope and*

*despondency, passion and action, and that his denying appearance hides a powerful affirmative force: in the midst of misery men are gods*<sup>16</sup>.

Therefore, it is possible and necessary to recognize that the future of a people lies in the vitality, plasticity and performance of their children and young people, through their cultural re-work, compared to structural constraints and possibilities.

Müller testified that to a halt in the process of demographic recovery of Asurini of the Xingu. The Asurini suffered drastic population decline in the 1970s and early 1980s of last century: [The] (...) contact, the transmission of diseases caused by the white people cause the disappearance of almost half the population, which had about 100 individuals in 1971 and reached 52 in 1982<sup>18</sup>.

Under such depopulation conditions, Asurini adopted strict birth control, according to their cultural parameters, so that children born not compromise relations desirable and allowed by his people. It was necessary to have children again, but without abandoning the values and principles Asurini. In the words of Müller: When known them, the birth rate obeyed the cultural rules as generational polyandrous marriage - that is, the marriage of a woman with a younger and older husband - for the existence of offspring. One of the justifications given by Asurini for birth control at the time is that the absence of young husband prevented the generation of children in terms of ideal society. Another ideal rule for the breeding was the age of women, ranging between 20 and 25 years for the birth of first child<sup>18</sup>.

The social experience of children and young people Asurini in this extreme situation of breeding population of its people was marked by intense closeness and social control by the older generations. Children born in this context grew in more contact with adults than with the other members of his own generation, which only began to be reversed in 80 years. It is noted, thus, as the story of a people includes varied experiences of socialization, cultural participation etc.

And here is another key lesson learned from the anthropology of children between the Asurini:

today's adults were in their time children and adolescents different from today's children and teenagers. The different historical situations, we must learn to recognize, in particular affecting the indigenous peoples, which requires us to understand them as dynamic situations. This conclusion, seemingly obvious, requires a complex issue for indigenous peoples, considering the image that makes them the non-indigenous, of immutable static and primitive cultures.

From the standpoint of the present historical situation: *Children Asurini have so among their peers, varied experiences of identity, socialization, social integration, cultural participation, spoken language*. Current Asurini childhood is the experience of this mosaic of intercultural situations, and the interaction between children themselves, the concomitant participation in household and community in the village provide the construction of a identity historically given of be Asurini and non Asurini, this and that<sup>13</sup>. In other words, from the child's anthropology perspective: *to look at society from child's view is to properly approach it in change*<sup>18</sup>.

### Are interdicted births "problems" for indigenous people?

It is in the context of changes to their own internal dynamism of indigenous cultures and external pressures resulting from the inter-ethnic contact, affecting the autonomous functioning of indigenous institutions in complex and varied historical situations that themes such as death or disqualification of life of indigenous children have been thought bioethically and anthropologically. The contributions of these studies are evident for the recognition of indigenous peoples' right to their uses, customs and traditions as a human right, even when confronting the morality that underpins the hegemonic conception. Anthropology contributes precisely by anti-absentee<sup>21,22</sup> and empathic<sup>19,20</sup> understanding of the topic, presenting the rationale of the multiple expressions of indigenous thought.

Holanda sought, in his dissertation at the Department of Anthropology, University of Brasilia (UnB), in indigenous elaborations of personhood

ethical dilemmas around such actions from the viewpoint of indigenous cosmologies and their position of disadvantage power against other hegemonic moralities<sup>23</sup>. Backed by ethnological studies with indigenous peoples in South America, the author inferred relational regimes under which they operate cosmologies and indigenous forms of social organization, i.e., the core of their ontologies.

In such schemes, in addition to the *Western individual-society dichotomy*, it is observed that the social is founded in human morality; there is not any individual without society, just as there are not societies of individuals. One is, thus, faced with a radical epistemological boundary between thought and Western and Christian values and indigenous thought and values, defined here as two ideal types, without the corresponding absolute, in reality, but which help measuring the empirical field of variations between them.

Holanda<sup>23</sup> states that from the point of view of indigenous conceptions of person, it is not just the body that indicates the existence of life, because it cannot be conceived outside the social. And the social is founded in human morality, defining the boundaries of belonging and the notion of otherness, which founded the social-relational of Amerindian cosmologies:

*And it is this relational scheme that allows me to think of a third element behind or beyond ourselves and others: the living creatures. It is their total exclusion of the level of relations that puts too as assertive of the social world as composed of a school of beings that goes to relatives to others. They are out of everything that sets up the transformational ontological scheme, are beyond the symbolic and practical, there is not as concept or image, do not participate in the movement that makes human and nonhuman. This is precisely what gives them the particularity of entities: different from everything that relates they will never be able to modify, live or die<sup>23</sup>.*

Such symbolic conception means that children (newborns and intrauterine) are human beings as previously constructed (culturally) by their relatives as (morally) included in the social body

by the body of rules, rights and duties observed by them. As there are not beings in themselves out of this ethical framework of life, those who do not participate relationally on the morality of relationships are *entities*, which is not to say that they are loved *indifer-entities* those who like their design.

Grasping infanticide from this understanding of the Amerindian ontologies logic consists, in terms of bioethics, an exercise in critical bioethics, as discussed by Diniz and Guilhem<sup>24</sup>. I mean, we recognize in the work of Holanda a concern to learn from infanticide since an epistemology compensatory inequality, in which the human of human rights refers less to a human being abstract, generic and universal, and most in conditions of vulnerability. In this sense, Holanda opposes the moral absolutism in favor of adopting an open-inspired pluralistic relativism where moral pluralism manifests itself as an exercise of freedom<sup>24</sup>.

The example of Holanda, the indigenous missionary Feitosa<sup>25</sup> holds in anthropological perspectives reconciled to bioethical discussions, specifically the paradigm of intervention bioethics<sup>26</sup>, to play in a pluralistic perspective, social problems of indigenous peoples and categorical errors of interpretation of "indigenous practices of infanticide" as the practice of murder<sup>25</sup>. After discoursing on the strategies of different religious groups in recent years have placed on the agenda the theme of "Indigenous infanticide" to achieve their own objectives, Feitosa questions criminalizing treatment meted out to these practices by Bill No. 1,057/07<sup>27</sup>.

According to Feitosa description: The aim of the project (...) is the practice of infanticide also identified in some Brazilian indigenous communities, especially those of recent contact. This PL treat the called indigenous infanticide as common murder, and states that every person who has knowledge of a particular indigenous woman's pregnancy at risk for the child to be rejected after delivery shall be required to report to the National Indian Foundation (Funai), the National Health Foundation (Funasa),



*the Guardian Council or the judicial authorities and police, under penalty of liability for the crime of failure to save*<sup>25</sup>.

To address the question considering the above two approaches by Holanda (Western and indigenous), Feitosa employs, in his work, the narrative structure of the Oedipus myth, trying to establish a channel of intelligibility between these two epistemological perspectives and morally distinct about infanticide. This approach enables the end of the work to frame cases of "rescue" of indigenous children by missionaries on indigenous lands, suggesting that a distinction be made between forms of intervention and interference in the lives of indigenous: *First, we understand it as a political action, properly planned, within a constructed process together with people directly involved, addressed to the action. The second is a unilateral decision, which is not respected the autonomy of the person or group alleged beneficiary of the action. It can be practiced by an individual or even by public or private institutions, sometimes in the form of 'assistance policy' or 'protective legislation'*<sup>25</sup>.

This distinction has to agree with the discussion by Roberto Cardoso de Oliveira in his work on ethnicity, ethics and globalization<sup>28</sup>.

Taking infanticide among Tapirape as a reference, the author takes up the important distinction that must be made between *custom) and moral norm*.

*(...) Which means that what is in the tradition or custom cannot be taken necessarily as 'normative' or, as write the philosopher Ernst Tugendhat, is unacceptable if it is accepted as right or good (so as the norm) because it is already given in advance in the custom, without being able to prove it as right or good. Admitting this distinction, it is always valid to inquiry into cases of morality and ethics within our discipline. Is it acceptable, for example, infanticide that Tapirape practiced until its eradication in the 1950s, by the Little Sisters of Jesus? And it's important to be said, moreover, that such a ban were conducted skillfully, no violence, only thanks to persuasion by speech, dialogue*

*(...). Indigenous and missionaries had their reasons to take a different attitude: Tapirape had every justification for not leaving the fourth surviving son, since he came - populated by a law they intuited along a secular experience - a population increase limited the potential of the regional ecosystem, whereas the missionaries for their faith in religious commandments, could not passively accept a custom that destroyed a life. For the indigenous, the custom was justified, since the sacrifice of some lives worth the life of every one in unity, to the missionary life of any person is an unquestioned good. Two moralities, two ethics? Yes, all perfectly rational. Therefore, there is not the question of rationality that is at stake. Therefore, how to deal practically with this situation? How to drive our action when we have no dogma to support it? In fact, the whole issue boils down to the intersection of two different semantic fields - the indigenous and the missionary - a question, moreover, equated by hermeneutical theory through the concept of 'fusion of horizons', observable in practice dialogic discourse*<sup>28</sup>.

In light of such distinctions for intervention and interference, custom and moral rule, how to interpret and enforce the law against such different cultures and social dynamics as are those involving indigenous children and adolescents? Feitosa argues that: *(...) only if it admits an intervention that will engage, collaborate and improve their own system of protection of indigenous children and adolescents never permit the replacement of these by external mechanisms, legal instruments of persecution or any arbitrary form of the alleged control*<sup>25</sup>.

The indigenous peoples themselves, represented in National Commission on Indigenous Policy, as has been sought to promote with the seminars held to discuss policies and rights of children and adolescents, have treated the issue in the proposed New Indigenous Statute<sup>29</sup>, which reviews the Law 6.001 of December 19, 1973. The chapter for the rights of indigenous children and adolescents directly proposes dialogue and seeking solutions satisfactory and, if possible, conciliatory, to ensure the full protection of indigenous children and adolescents.<sup>30</sup>

This means that the ECA<sup>15</sup> cannot be adopted simply as a means of punishing practices, customs and traditions, which are suspected to be criminals to national law, as proposed by the PL 1.057/07. As Briones asserts: (...) *no group is entitled in circumstances none circumstance, to force or other change or abandon their practices and beliefs, because change is also a right (...) cultural particularities of peoples and the rights that are not generated by its temporary reconnaissance, so it introduced the requirement to design differentiated citizenships that account for the cultural diversity that runs throughout society*<sup>2</sup>.

Although not intended here to describe all the fallacies of this project, it is an explicit first mistake, which refers to the framework of infanticide from a fanciful representation of indigenous peoples as living in relative cultural autonomy against the national society. The PL establishes false debate by situating the "infanticide" within indigenous communities based on common sense that the "Indigenous" is the "forestry", "wild" and "primitive" of forests - when dealing with individuals, groups, not only people and companies with different cultures, but also in different historical situations of vulnerability.

A recent survey of the Brazilian Anthropology Association (ABA) and the Federal Public Ministry (MPF) on criminalization and imprisonment of indigenous<sup>31</sup> on the statement illustrates this perspective criminalizing. We identified cases of indigenous women living in urban or rural areas, fangs due to "egregious" produced in their homes because their husbands do not have indigenous involvement in illicit narcotics. Her children (fruit of interethnic marriages, therefore) are placed in the custody of the child protection agency and the condition of indigenous mothers has not been considered by the courts or the prison system.

The second aspect concerns the parts of the project predict that some sort of intervention or monitoring by the federal indigenous agency, the prosecutor or by the courts within the indigenous communities and families (art. 69 D, art. 69 E paragraph 1º and 69-M single paragraph).

There are not enough claims such as "in dialogue with their community" or "after hearing the communities involved" etc..The problem posed by Cardoso de Oliveira and Feitosa, consists precisely in the ways of effecting such a "dialogue" or "listening", considering that the asymmetry of power between ethnic groups remains a social fact.

In this regard, it is noted once again that the core of the matter is to consider only the problem that occurs within indigenous communities "culturally distinct" of national culture, without considering most recurrent issues such as crime and violence against children and indigenous adolescents in injunction situations such as those pertaining to intermarriage, moving between different areas (urban, rural), grooming for slave labor or human trafficking etc. – historical factors of vulnerability of these groups.

There are not any explicit references in the PL or in the justification of such cases, suggesting that it seeks only to ensure ways of removing indigenous children from their families to make them available in a circuit of adoption by non-indigenous. Far from providing better living conditions for these individuals and groups, this perspective makes room for the introduction of other instruments of interethnic oppression through criminalization of cultural practices, which violates the precepts of international agreements and conventions on human rights to indigenous children and adolescents, which prohibit the exclusion of these subjects in their own familiar and socio-cultural context.

### Final considerations

The legal instruments that directly address the defense of indigenous children and adolescents should not be dismissed in its function in the face of appalling living conditions and even genocide of (against) entire indigenous peoples, or other groups in frank demographic and political and cultural autonomy recovery process. However, in order to organize laws and conventions of full protection and priority to children and adolescents in multiple contexts and indigenous perspectives, it is

imperative - first - to understand these contexts and perspectives.

This understanding can only be achieved through dialogue and an inter-generational discursive ethics, in which adults learn to see, hear and feel what they see, hear and think children and adolescents - the example of that practice and experience the indigenous peoples from their uses, customs and traditions. Likewise, the surrounding society must be willing to listen and accept the values and principles that guide the cultural practices of indigenous groups, respecting them by the symmetry of power of decision.

In summary, we can say that the bioethics contribution brought by the anthropology of children and adolescents is precisely the practice of intra-and inter-ethnic dialogue as something that cannot be alienated from what they think and

make indigenous children and adolescents in their midst, under the risk of imposing on them a double protection: practiced in the past one hundred years of indigenous peoples by legal provisions that define them as "relatively incapable" and other practiced by adults on children and adolescents in the form of "minorization".


To overcome this patronizing attitude rooted in the relationship with indigenous peoples, on the one hand, and with children and adolescents, on the other, we must be able to think the world from different epistemologies and moralities, remembering that they do not practice absolute or orthodox terms, but in particular historical situations and heterodox, precisely those children and adolescents know how to interpret, create and recreate from their own perspectives.

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**Table 1.** Indigenous organizations participating in the discussion seminars on indigenous children and adolescents

Organization	Acronym
Articulation of the Indigenous People of Brazil	Apib
Coordination of Indigenous organizations of the Brazilian Amazon	Coiab
Articulation of the Indigenous people of Pantanal	Arpipan
Articulation of the Indigenous people of the South	Arpinsul
Articulation of the Indigenous people and Organization of Northeast, Minas Gerais and Espirito Santo	Apoime
Aty-Guasú	-
Articulation of the Indigenous people of Southeast	Arpinsudeste
Indigenous Council of Roraima	CIR
Federation of Indigenous organizations of Rio Negro	Foirn

**Table 2.** Indigenous people represented in the events and political rights for indigenous children and adolescents organized by CINEP / SEDH / Conanda

Event	Represented indigenous people
I National Seminar	Baniwa, Guarani, Pataxó, Kaingang, Kaiowá
South and Southeast Regional Office	Kaingang, Xokleng, Pankararu, Kaiowá, Terena e Guarani
Midwest/Central Brazil Regional Office	amu+na, Rikbaktsa, Karajá, Xerente, Javaé, Guató, Kaiapó e Bakairi
North Regional Office	Apurinã, Gavião, Munduruku, Baré, Baniwa, Wapishana, Makuxi, Taurepang, Guajajara, Timbira, Kriká+, Tikuna, Sateré-Mawé, Mura, Tukano e Surui
I National Seminar	Tingui-Botó, Pankararu, Pataxó e Tuxá
South and Southeast Regional Office	Baniwa, Wapishana, Baré, Kaiowá, Mbyá, Guarani e Kaingang