

# Ethnic identity 'under review': The issue of the anthropologic survey on the Indigenous Lands of Brazil

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## Abstract

This article analyses anthropological surveys in Brazil that are conducted by consultant researchers (specialists in ethno-anthropological disciplines) for the national institutions responsible for officially recognising which lands are to become indigenous reserves. The complexities of the Brazilian situation and the theoretical, methodological and ethnic (identity) issues faced by the anthropologists are examined. This article attempts to answer the question: can anthropology, which since the 1960s has developed a specific analysis of the concepts of ethnicity and ethnic identity, provide specific answers to such institutions concerning the ethnic identity of these groups and their territorial borders? This article attempts to answer this question by drawing on field research that turned anthropologists into *informers*, just as Indians seeking to claim their territorial rights were turned into *informers* by these anthropologists. The article analyses the strategies adopted by these Brazilian researchers while performing their consultancies, concluding that the anthropologists who have decided to embark on this challenge assume a role as *mediator* between indigenous community and state rather than that of a *classifier* by and for the state.

**KEYWORDS:** Brazilian indigenous, ethnic identities, territorial rights, ethical responsibilities of anthropology, anthropological consultancies

## An introduction to the Brazilian instance: What is at stake?

This article is the result of research focused on the processes of identification and demarcation of the *Terras Indígenas*, the official term used to define the indigenous reserves in Brazil.<sup>1</sup> These are political processes that involve many actors: the Indians claiming their territorial rights, the government representatives, the lawyers and the judges responsible for solving the legal disputes relating to the lands, and lastly the Brazilian anthropologists who, while carrying out a methodological analysis of the indigenous territories, play a complex

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<sup>1</sup> Research performed on the field in 2004 both in the northern Brazilian region of Minas Gerais, where the Xacriabá live, and in some national universities with interviews with some anthropologists and the administrative and legal offices responsible for the performance and regulation of the Brazilian indigenist policies.

role as mediators between the Indians and all the other actors. This research focuses above all on these Brazilian anthropologists: through studying the way these consultancies are carried out and through interviewing them.

This paper analyses their on-field studies and reflects on the theoretical-methodological issues surrounding customary anthropological surveys. I consider predominantly Brazilian literature, while also examining the relationship between anthropology and the law (Leite 2005). These are two different disciplinary fields, equipped with their own methodologies and theoretical approaches, together with deontological rules and specific ethics. The Brazilian anthropologists who have decided to perform these challenging surveys attempt to maintain a delicate balance between their own disciplinary approach to indigenous issues and making their work relevant to judges and administrators, in particular through collaborating with the lawyers with whom they have to work closely. This provides an opportunity to reflect on the social and political role of anthropology, including the relationship of anthropology with other disciplines.

In 1988, the year in which the current Constitution for a Federal Brazil was established, the *Procuradoria da Republica*<sup>2</sup> stipulated a deal with the Brazilian Association of Anthropology (ABA) to ensure the collaboration of anthropologists as consultants on the demarcation of Indigenous Lands. The General Public Prosecutor Departments of the individual Brazilian states were facing a series of legal claims from private parties against the federal government, claims that were centred upon the demarcation of indigenous lands. The deal with ABA was a result of the inadequacy of information and data that were supplied by the technicians of the FUNAI (*Fundação Nacional do Índio* - Federal Indigenous Department) to concede or deny to individual indigenous communities the right to obtain the demarcation of their land.

The anthropologists were recognised as specialists in the field and were asked to conduct anthropological surveys of indigenous territorial claims in the regions. Formerly, anthropologists were not assigned by the FUNAI to conduct surveys, in fact most of the times FUNAI used graduates in social sciences, FUNAI officers, historians, geographer, agronomists, with some of them being renamed as anthropologists by FUNAI.

It must be emphasised that such surveys concern not just the instances in which indigenous groups are involved but also other Brazilian populations and in particular the *quilombolas* community, formed by the descendants of African slaves who achieved freedom (Cantarino O'Dwyer 2002).

I will concentrate exclusively on the surveys relating to the indigenous territories: 1) the *laudos de reconhecimento etnico* (surveys aimed at assessing whether a group could claim to be indigenous) occurred very rarely; 2) the consultancies were aimed at assessing whether land could be defined as being 'of traditional indigenous occupation' and could have its borders marked.

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<sup>2</sup> The Procuradoria da Republica is a legal body that has the role of defending individuals or groups of Brazilian citizens when their constitutional rights have been infringed. This body is mainly made of judges and lawyers and deals with disputes against individuals and public bodies (see Losano, 2006).

The first type of survey was requested only if doubts arose concerning the indigenous identity of the considered group, doubts mostly raised by third parties interested in the area in which the Indians were living. However, in 2002, with the ratification by the Brazilian Senate of the text of Convention 169 of the ILO (International Labour Association) on the Indigenous and Tribal Populations in the Independent Countries, this type of survey was abandoned. Article 1 states: 'Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply'. As a result, in June 2003, the first 45 groups claiming their indigenous identity were recognised as indigenous populations. The principle of auto-affirmation and auto-identification was acknowledged, even from a legal point of view, as explained in the *self ascription* principle of ethnic processes (Barth 1969).

What remained unchanged was the presence of an anthropologist to identify a territory: a highly contentious process. Theoretically, an indigenous population officially recognised by the state should be granted a series of rights deriving from the Indian's *special* legal status. However in practice, for those that do not live within recognised territories, it is impossible to enjoy such rights.

The roles of anthropologists engaged in such surveys can vary: the *Procuradoria da Republica* may employ an anthropologist as an external consultant to perform a specific survey to solve an existing claim, or may employ them as full time anthropologist surveyors or as interns; FUNAI may employ anthropologists in one of its departments or to lead a team in charge of identifying an indigenous peoples' land, managing a single survey and the work of other specialists in other fields.

To date, the struggle for the demarcation of land represents the main battle fought by indigenous associations and the pro-indigenous NGOs.<sup>3</sup> Within the Brazilian anthropologist community, the critical approach to political biases that determined the creation of the first reserves nowadays coexists with support to the indigenous movement claiming their rights over the lands (Souza Lima 1995; Ramos 1998; Oliveira 1999).

In order to understand the heterogeneity of the Brazilian indigenous populations, we must consider that nowadays there are 227 groups that live within the national borders, that there are 189 indigenous languages spoken, and that there are 626 reserves which cover a total of 109,778,741 hectares (1,097,787 km<sup>2</sup>), Roughly 13% of the Brazilian territory.<sup>4</sup>

The main stages that lead to the official recognition of Indigenous Lands are: *delimitation* (identification, i.e. a FUNAI proposal to create an indigenous reserve): A *grupo de trabalho* is sent to the region led by an anthropologist and made up of specialised professionals who analyse the area from an ethno-historical, demographical, environmental, sociological and land-wise point of view; the Ministry of Justice takes the resulting report

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<sup>3</sup> In order to understand the level of the adversarial nature existing in the processes of demarcation of the Indigenous Lands in Brazil and the complexity of the legal issues coming with this processes, Losano (2006) offers a useful contribution referring to the Terra Indígena Raposa-Serra do Sol, in the state of Roraima, which is at the centre of a dispute concerning an indigenous community against the local administrative interests, the rice farmers and the Brazilian army.

<sup>4</sup> ISA data, Instituto Socio Ambiental, March 2008.

into consideration and an official *declaration* of Indigenous Land will follow; the *demarcation*, the practical demarcation of the borders of the area; *homologation* – through a decree by the President of the Republic the areas are formally registered as propriety of the union of the Brazilian states; and *regulation*: the non-indigenous occupiers of the land are expelled.

However, from a legal point of view, what exactly must the anthropologist identify and delimitate? Under the Constitution, indigenous lands are defined as ‘traditionally occupied by Indians’: a) permanently inhabited by Indians, b) used for production, c) fundamental for the preservation of rivers, forests and all other natural resources essential for the wellbeing of the Indians, d) necessary for the physical and cultural reproduction in the manner which is customary to them and their traditions (Art. 231, §1).

These surveys are carried out within a limited period of time (generally no more than 45 days), including an analysis stage and one for the actual writing of the report. Although researchers have attempted to conceptualise ethnicity theoretically (Barth 1969; Cohen 1974; Anderson 1991), fewer have concentrated on the instances when anthropology is called upon to express itself in front of an official body on the ethnic claims of a group.<sup>5</sup> One of the most significant examples is Clifford’s famous essay (1999) on the Mashpee Indians who were claiming propriety rights over lands at Cape Cod in the northeast United States. In order to obtain this territory, the group had to be recognised as an ‘Indian Tribe’ through a legal process. Clifford’s argument is sustained by an analysis of the ethnographic report of the trial, in particular on a series of issues that produced profound reflections on the role of anthropology, its relationship with other disciplines and the funding of anthropology itself.

The anthropologists, in the role of expert witnesses, were called to explain definitions like those of ‘tribe’, ‘ethnic group’, ‘indianity’, ‘community’ and the differences arising between processes of assimilation and acculturation (Clifford 1999: 366–7). Clifford asked himself whether, in the event of adversarial or politically unstable situations, it is possible for an anthropologist to produce a neutral and balanced cultural analysis (ibid.: 371). Lastly, from the methodological point of view, Clifford points out the overwhelming power that written resources have in a court compared to oral ones and the difficulty for those anthropologists using mainly oral ethnographical sources (ibid.: 388–9).

These short examples in Clifford’s essay fit within a more general debate over the legitimacy of classifying the collective identity of the groups and defining them ‘legally’ and ‘officially’, considering in particular the changing historical situations (local and global) that determine such processes (ibid.: 331–2).

These issues are the starting point of this paper, and can be summarised in one question: Does anthropology as a discipline have the means, the theoretical-methodological instruments, the political and intellectual will to impose itself within this processes or, instead, does it enter a court having already lost and will only be an anthropology ‘for deposition’, submitting to rules, standards and categories too far from its disciplinary environment?

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<sup>5</sup> There has been more research on these issues in the Canadian (Feit 2004; Ash 1997) and Australian (Povinelli 2002) contexts.

## **A challenge for anthropology: Theoretical-methodological problems and ethical choices**

By performing these surveys, anthropologists expose themselves to the risk of being criticised both from the theoretical-methodological and from the political points of view. Can anthropology make available to the institutions its disciplinary knowledge without contributing towards a harmful process of the *creation* and *crystallisation* of identities?

If in analysing the concept of ethnic identity, we tend towards completely 'destroying' it while developing a debate 'against identity' (Remotti 2005), we must also consider that the social actors studied in anthropology (both in Brazil and in other geo-political contexts) require an increasing recognition of their differing identities, as in the case of the Brazilian indigenous movement, beginning with their use of identity claims to obtain rights to the lands. Remotti (2005: 100) cites Lévi-Strauss:

Sciences (from mathematics to linguistic, from biology to philosophy, besides ethnology and anthropology) lead towards a 'critics of the identity' rather than its reaffirmation, interpreting the identity as a sort of 'virtual fire' or 'limit' to which one can refer to in theory but which nonetheless is not reflected in reality.

The dangers uncovered by Remotti (2005: 29) show that behind the policies of claims for land and identity recognitions hide the germs of 'cleanness'. Starting from the presumption that the rise of an identity is the result at the same time of processes of construction and separation, the scholar points out that 'it is not very difficult to switch from recognition and respect of differences to discrimination, and from this to refusal, and from refusal to the attempt to eliminate' (Remotti 2005: 28–9).

So from theoretical problems, we easily end up with issues that deal with risks in the ethical and political sphere that are involved in the processes of ethnic recognition. How can we classify the types of problems that exist within the process in order to achieve clarity and synthesis? In relation to the theoretical issues, which are central to these processes, the first topic that must be dealt with is ethnicity.

The anthropologists responsible for performing these surveys must be as careful as possible to avoid analysing the ethnic identities of the indigenous community using concepts and metaphors belonging to the natural sciences. Otherwise, the anthropologist may attempt to identify the social and ethnic groups in the same way that a natural science scholar classifies animals and plants depending on their morphology. For the ethnologist, such morphologies would be reflected in the defining cultural features of the various ethnic groups. Such expectations may influence the work of the researcher called to provide a specialist consultancy on the indigenous identity of a group; specifically, this amounts to defining whether the group maintains continuous relationships with the pre-Colombian populations. Such a task is easier in certain Brazilian regions, such as the Amazon where indigenous groups are living in conditions of relative isolation, but it is much more complicated in regions with a longer colonial influence, where the contact between indigenous populations and Brazilians of European and African origins has existed for almost 500 years.<sup>6</sup>

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<sup>6</sup> The landing of the first Portuguese navigator Pedro Alvarez Cabral on the Brazilian shores dates back to 1500.

Barth (1969) argues that 'ethnic groups are categories of ascription and identification by the actors themselves, and thus have the characteristic of organizing interaction between people'. Barth highlights the self-attribution of identity by the groups themselves as a necessary condition for ethnic belonging. It is exactly this self-ascription that challenges what is to be expected from the anthropologists called to judge the ethnic identity of a group.

Ruben George Oliven, argues that the challenge for anthropologists who undertake surveys, is that of supplying answers that would have legal efficacy, while editing the data gathered during the survey and building arguments based on a theoretical position close to Barth's. However, this must avoid common sense arguments such as seeking proof of the continued occupation by the Indians of the lands since Cabral's landing in the year 1500 (Oliven 2005: 66).

In these surveys, the anthropologist is appointed to judge the ethnic identity of the group. But Barth's approach foregrounds the auto-attribution of identity, contradicting a common sense approach that is essentialist and 'culturalist' (Smith 1986).<sup>7</sup>

In contemporary Brazil the *Indian* or *indigenous population* are perceived in two ways: the first is as an individual strongly bound to the natural environment, lacking advanced technical skills, deeply differing from urban Western society, and relegated to a primitive past; the second is as someone with a legal status that involves the recognition of a series of the specific rights outlined above.

These two categories are not detached from each other. Often there is a direct link between the way in which judges, lawyers, administrators and politicians *think* and *interpret* Indians to whom a series of special rights must be guaranteed, and the general image of the Indian. The anthropologist-surveyors find themselves in the difficult position of navigating this situation.

Even in the case of the Mashpee (Clifford 1999), the anthropologists appointed to find evidences in favour of the Indian case, faced difficulties in particular when defining *tribe* and *culture*. In the *ethnographic* report of that process, Clifford points out how Sturtevant, the anthropologist supporting the Mashpee claims, wisely kept a flexible theoretical structure concerning what features a group should possess in order to be defined as a tribe. However, such flexibility appeared as a symptom of approximation and confusion to the judge, who was closer to the rigid classification set out by Elman Service (1963) relating to band, tribe, chiefdom and state.

However, some fixed principles were brought to bear from anthropology, such as the difference between the ethno-anthropological and the historical approach. While many historians tend to distinguish between invented and real traditions, the anthropologists tend to concentrate on demonstrating the ways in which certain historical descriptions are

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<sup>7</sup> Besides the aforementioned study by Barth (1969), the list of the studies on ethnicity is very long (Cohen, 1974; Amselle, M'Bokolo, 1985; the studies gathered by Maher, 1994), to name a few given that such topic has been deeply considered by many academics starting from the 1960s. The works by Fabietti (1998) and Gallissot, Kilani, Rivera, (2001) offer a general picture, while Eriksen, (1993) deals in particular with the topic from the point of view of its relationship with nationalism, as it happens with *Imagined Communities* by Benedict Anderson (1991).

used to create the contemporary identity (Li Causi 1995). With *historical* investigation of this kind, the risk lies in constructing definitions of ethnic identity that lead to conclusions that divide the *real* ethnic groups from the *fake* ones. Such an approach in the study of the indigenous populations – that only in the last few years have begun a process of territorial claims – risks *baptising* Indians as either true or false.

Luciano Li Causi (1995: 15) specifies that, when referring to populations that may have followed an 'untrue' ethnic ideology: 'ideology is part of reality... relegating it to the world of the non-authentic is not useful for the social sciences, nor for politics'.

Pacheco de Oliveira, in speaking of the less isolated indigenous groups in north-eastern Brazil, (1999: 172) claims that:

While studying the historical process undertaken by the group, the only continuity that is possible to sustain is that experienced by the same group while rebuilding and remanufacturing its unity and compared to other groups it has interacted with.

These theoretical suggestions, as well as those supplied by the anthropological literature on the negotiability of the ethnic identities, materially helped those that have to perform surveys. The famous study by Mitchell (1956) on the *Kalela dance* in Rhodesia shows how the ethnic categories can expand or contract depending on the occasion, and how they are partly controllable. The emic categories of auto-identification, and the prescriptive ones relating to the interactions between the members of the group, which define the ethnical groups, may vary in their content and in their breadth depending on different situational contexts.

In relation to ethnic identities and the concept of territory, anthropologists must be able to impose a series of concepts that are not always welcomed and known outside the discipline. For instance, the statement that the ethnic borders are not necessarily territorial but rather social avoids fully isolating the groups but rather permits a continued flux of information, interaction and exchange. Anthropologists are then called to identify the *traditionally occupied lands* of the Indians. On the one hand, anthropologists must think about the present and future auto-subsistence of the group when proposing a specific territorial identification. On the other hand, anthropologists must avoid structuring the surveys of the indigenous lands on legal principles focused on the concept of *habitat*. As such, it is fundamental to avoid confusing the relationship with the territory as an immanent and static feature.

Indigenous territories have been continuously changing, following additions and alliances and separations which took place both in the pre-Colombian and the colonial period: they cannot be considered and described as a natural phenomenon. Approaching this topic as if it is a form of territorialisation allows us to relinquish an essentialist optic and avoid biological metaphors.

In addition, the legal and administrative institutions often misunderstand the relationship of groups with their territory, not only misunderstanding the social forms of occupation and demarcation of the spaces, but also the socio-cultural reproduction of the indigenous community. Within these, all the emic representations, relating to the

relationship with the other Indians and the whites, and the meaning that the territory has from the ritual and spiritual point of view, play a fundamental role. These territories have a very strong link with the world of the deceased, the spirits and the indigenous divinities: the world of nature is fundamental for what concerns both indigenous cosmology and the socio-political organisation of the indigenous societies.<sup>8</sup>

For example, within Amazon studies, Peter Gow (1995) writes how the Piroos interpret the ecosystem that surrounds them as part of a relationship of consanguinity. The link between the land and consanguinity is so strong that talking of places within the territory implies a constant more or less declared link with the consanguinity relationship. In considering the anthropological surveys, the first inevitable question that arises is whether anthropologists should take charge of the classification and definition of social or ethnic groups and identification of their territorial borders.

The Brazilian case might appear to risk anthropologists participating in the same process as of the colonialist anthropologists who aided the European administrators in the exploitation of the land and of its inhabitants (Amselle & M'Bokolo 1985). Provokingly, we may even compare these processes to that of 'ethnism' (Chretien 1997), a manipulation of the ethnic categories and classifications started by the colonisers (with the contribution of anthropologists) and further developed with political objectives by the post-colonial regimes.

However, the debate on the contributions offered by the anthropologists, who acted within the colonial context and in order to accomplish their political responsibilities, is extremely complex. Concentrating exclusively on the faults of some of them (although they exist and are relevant) is perhaps misleading and does not allow us to grasp the theoretical-methodological ideas that were developed by the researchers during the colonial administrations. However, an analysis of the responsibilities of anthropology in the colonial period cannot be dealt with here; for which, see Asad (1973), Stocking (1992) and Colajanni (1999) who have analysed the role of anthropologists in a crucial phase for the development of the discipline.<sup>9</sup>

What I would like to analyse is the specificity and the complexity of the surveys performed in contemporary Brazil. The Brazilian case presents features that are very different to those of colonial Africa. In Brazil, the survey process is driven by the indigenous populations themselves; populations who are claiming official ethnic recognition and a land in which to live autonomously. The communities themselves, at times with the aid of indigenist NGOs, ask anthropologists to conduct research on the field in order to prove the truthfulness of their claims. In addition, we must underline that, if such a survey *sui generis* was not to be performed by an anthropologist who has already conducted academic-theoretical research in that region, it would be performed by others lacking any knowledge and relationship with the community (government officials, geographers, agronomists, archaeologists, etc.).

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<sup>8</sup> For a proper insight into these issues, compare the works on the *prospetivismo*, an theoretical approach developed by Viveiros De Castro (2002), as well as the works by Descola (1986).

<sup>9</sup> The list of theoretical contributions would be much longer. In fact, we must remember Thomas (1994), Dirks (1999) and the recent essay by Pels (2008).



The Brazilian anthropologists have two options: they can avoid facing this series of complex issues, refuse a place of political-social responsibility, and instead criticise from within the universities; or they can act as specialists on indigenous issues, working from within the institutions. In 1978, the Brazilian anthropological community protested against a proposed 'Emancipation Law' brought forward by Reis, the Home Office Minister. The decree was part of a policy aimed at 'absorbing the Indians within civil society and to abandon as soon as possible the idea of indigenous reserves' (Jornal do Brasil 1974). The most devastating consequence for the future of the indigenous populations was concerned, as usual, with land: the Indians who would have *emancipated* themselves would have lost their rights to the lands. With emancipation and the giving up of their status as Indians, not only they would have lost the right to the land but also the right to perform a series of specific socio-cultural practices that were not allowed by the Brazilian civil and penal code. Following the mobilisation of the anthropologists, the indigenous movements, the critical stand of the majority of the press, and the pressures coming from abroad, the proposal was never approved.

The anthropological community took a clear stand, both because of a sort of alliance with the indigenous populations but also because, after balancing out on one side the paternalist politics made by FUNAI as guardians of the indigenous populations, and on the other side the possibility that the Indians might lose their lands, it decided to defend the rights acquired by the Indians and respected through methods which we would today regard as imperfect.

Another battle the anthropologists fought, this time without success, was that against Decree 1775 by the Minister of Justice, Jobim. This decree, promulgated in 1996 and still effective, reformulated the rules for the demarcation of the territory. Compared to the previous Decree 22 (1991), this law allowed the possibility for third parties to dispute the demarcation claims: governors of the states, landowners, colonialists, mineral or agricultural enterprises.

Other examples of anthropologists engaging in this process include many influential Brazilian anthropologists assuming important roles within the national indigenist bodies. Kurt Nimuendaju collaborated with the SPI (*Serviço de Proteção ao Índio*), an indigenist body existing before FUNAI and that between 1905 and 1945 registered more than 40 indigenous populations while travelling in the Brazilian inlands and contributing to the first provisional mapping that carried any ethnographic meaning. Darcy Ribeiro not only was the official ethnologist of SPI from 1947 to 1957, but was also president, during the Goulart government, of the Casa Civil, one of the highest national governmental positions. Finally, the ethnologists Eduardo Galvão and Roberto Cardoso de Oliveira were also directly involved in the national indigenist politics.

One of the greatest ethical issues is the relationship between anthropologists, on the one side, and lawyers and judges, on the other: two disciplines encountering each other and yet distinguished by different ethic codes. For instance Sivio Coelho Dos Santos (2005: 60), an anthropologist who was president of the *Comissão de Assuntos Indígenas* from 2000 to 2002, and of the ABA (Association of Brazilian Anthropology) from 1992 to 1994, points out that during a trial any argument is acceptable for a lawyer if it is in

favour of his cause. This is very different from the practice anthropologists involved in a trial because of their very different ethical code.

Before returning to this point concerning the difficult relationship between different disciplinary worlds facing each other within these kinds of trials, we must deal with the last important issue relating to the methodological problems existing within anthropological surveys. Because of the peculiarity of this kind of research, it is necessary to pay great attention to the methodological strategies used: because of the specificity of these strategies, there are wide differences between a study on the field for exclusively scientific purposes and an anthropological survey. For example, in order to perform productive research on the field, it is necessary to spend a long period within the local environment, and this is not possible given that the period available for a survey is less than 45 days.

Another fundamental characteristic is that the informers participating in the interviews may be aware of the purpose of the research and of the crucial consequences that the results may have on the future of the community. They may therefore continuously attempt to *conduct* and guide the anthropologist through narrative routes aimed at obtaining politically strategic results.

Sources are an extremely important issue. An anthropologist must examine and report both written and oral sources acquired through interviews on the field when reconstructing the history of an ethnic group and the corresponding borders to the territory traditionally occupied. The main problem with the written sources is that few historians have dealt in depth with indigenous populations: in fact indigenous populations have solely been 'told about' as passive witnesses of conquering and administrative actions on the lands carried out by the colonisers (Carneiro de Cunha 1998). The historical data available on the indigenous populations is limited to the stories reported by the first explorers, the Portuguese colonists or the Roman Catholic missionaries, and therefore these few sources have always been written from these perspectives. Anthropologists are often bound to use many oral sources, due to the methodology of the discipline and to its needs, easily liable to criticisms by lawyers and judges. In a trial, a written source has more credibility than an oral one, given that it would seem a proper proof compared to information and life stories that are gathered through interviews. The opponent of the Indians often object through their lawyers that such interviews are not reliable since they are carried out in a moment when the informers are personally involved in the process of a political-territorial claim. In addition, the fact that the surveys are formally considered as *ethno-historical* studies and not *anthropological* (under Decree 22/91 by FUNAI, which was regulating the whole process of identification of the indigenous lands until 1996) shows the weight that was given to the historical studies within the institutional offices.<sup>10</sup>

Just as with the negotiability of ethnic categories and the selection of relevant cultural features of a group, the reconstruction of the historical roots could be manipulated. Undoubtedly, history itself, as the selection of a common history of an ethnic group, is not a product of the past but rather is an answer to the needs of the present. This approach

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<sup>10</sup> Nowadays this process is governed by Decree 1,775 of 1996 and in particular by Portaria: MJ, 14 of the 9th of January 1996.

does not put aside the study of the historical sources of the region where the Indians live, but enriches them with new and important elements concerning the reliability of written and oral sources. On one side stand the written sources resulting from the stories of the first conquerors, explorers and missionaries, and on the other side stand the oral sources gathered from the stories told by indigenous groups today, stories that are not always compatible with those of the ancient written sources. Both stories may be manipulated and are affected depending on the time they were written or told, depending on the points of view or the specific political needs.

The issue concerning the different methodologies of the anthropological and legal disciplines must not be overlooked. Both judges and lawyers can commission such *sui generis* research and report its results back to the courts. These actors own a set of disciplinary knowledge, which is definite and specific and yet very different from anthropological ones. The fact that the research is destined not to be read by specialists presents the anthropologists with new challenges. Should they translate the anthropologic lexicon and theories, or should the readers of the surveys attempt to understand theories and methodologies that belong to the anthropological research, given that they appointed the anthropologists as specialists to conduct such surveys?

Behind all these questions there is a crucial issue that, as we have already seen, involves theoretical, ethical and methodological aspects concerned with the relationship between ethno-anthropological and legal disciplines.

## **The answers offered by Brazilian anthropology: From classifiers to mediators**

In order to find solutions to the ethical, deontological, methodological and theoretical problems that the surveys present, the Brazilian anthropologists in 2000 edited a document called *Carta de Ponta das Canas*. This was issued by a group of anthropologists coming from different Brazilian universities and research centres, gathered in the *Oficina de Laudos Antropológicos* organised by the ABA. The main objective was to provide guidance parameters that could be used by researchers intending to perform surveys in collaboration with the *Procuradoria General da Republica*.

The document points out the opposing features of the legal-administrative sphere and the anthropological one. These two very different spheres have many opposing approaches, including judges' attempts to reach the *truth*, while anthropology tends to propose interpretations. The charter holds that there is no way to avoid the tensions between these two professional fields given that the only valid alternative would be the simple subordination of one sphere to the disciplinary knowhow of the other. However, it emphasises that: 'the job of an anthropologist is not that of a detective or a judge, neither is it pretending to reveal the truth or produce a reasoned judgement on the opposing stands; instead it is that of translating a reality not easily understandable, especially when read by those in the legal sphere' (*Carta de Ponta das Canas* 2000:3).

The document underlines the role of the anthropologist within such processes:

When working on such issues, anthropologists act as an external classifier who, with a seemingly established stand, identifies the social and cultural units; they must detach from the positivistic precepts that stand at the source of this question. The anthropological knowledge is definite and it is reached through dialogue, the translation and explanation of native categories, being able to interrelate the ethnic categories legally recognised with the categories and circuits of relationships belonging to social groups and to such cultural environments which are being researched (Carta de Ponta das Canas 2000: 4).

It emerges from the interviews conducted with anthropologists who have been involved as surveyors in the processes of ethnic recognition and in particular of demarcation of indigenous reserves, that the main tendency within the Brazilian anthropological community is that of ethnologist-surveyors who do not claim final judgements on the matters on which they are asked to intervene. The anthropologists are interested in intervening as declared independent professionals and as specialists on the subject; however, they seem reluctant to express definite opinions, making it clear that the ultimate political responsibility and the final say belongs to the officials, judges and lawyers. In fact, the anthropologist-surveyors seem to act as mediators or as *social-cultural interpreters* between Indians and the state. On the one side, they show the indigenous territorial claims to the representatives of the public bodies and explain, with the help of other experts from other disciplines, the use that the indigenous populations make of the claimed territories. On the other side, they talk with indigenous groups informing them of the real chances to win the claims over the territories. On the field, these interactions take the shape of real negotiations between Indians and anthropologists.

For instance, the anthropologist surveying the indigenous reserve of the Rancharia, inhabited by the Xacriabá Indians in the north of Minas Gerais, was ready to identify a much bigger territory as indigenous land than that in fact described in his document. It was the Indians themselves who pressured for a smaller territory in order to obtain a common plot of land and avoid conflict with any strong territorial interest that could have slowed down the process (Lenzi Grillini 2010). The task of the anthropologist is therefore that of acting as best as he can as the specialist serving the interest of the Brazilian institutions in order to analyse and make intelligible both the claims and the indigenous relationship with the territories. At the same time, the anthropologist would show the actual outcome of the claim and explain to the communities the workings of the process. The anthropologist therefore assumes the role of a translator on both sides and, as such, attempts to maintain a critical stand.

The *Carta de Ponta das Canas* also makes some specific recommendations on the methodologies to be used when performing surveys and on the conditions necessary to establish a dialogue with lawyers and public officers:

To evaluate carefully the question presented by the enforcer or the official of the judiciary, with the objective to possibly correct its interpretation, refuse it, or suggest more fresh and appropriate ones, given that the issue is correctly formulated from the anthropological point of view. This should preferably be done through a direct dialogue with the researchers (2000: 4).

In order for the anthropological issue to be properly understood, we must 'clearly define the processes as well as the theoretical basis that shaped the outcome of the survey' (Carta de Ponta das Canas 2000: 5). Furthermore the anthropologist is advised to:

... be meticulous and systematic in explaining the reasons that have led to the presentation of the collected information, depending on the final objectives of the survey ... What distinguishes an academic reading of this topic is the 'thrift' of the answers, reducing as much as possible the ethnographic wealth according to the limits of the question (ibid.).

The way a survey is written can show the relevance of 'making systematically explicit the content of those notions used in the text that do not correspond to the classic "dictionary" meaning and that have a specifically anthropological nature' (ibid.). The document further develops the definitions of both ethnic identification and *laudos* within the national territories. It establishes that 'ethnically differentiated groups are those communities formed and stated as such through their own categories of representation and organisational expressions' (ibid.), a rather open and wide definition we may add.

It appears that from the methodological point of view 'the verification of the defining ethnic and social categories should be based on the ethnographic research before that on the research of potential historical-documental and archaeological references' (ibid.). This quote should help us highlight the importance of ethnographic data for anthropological research, compared to the written sources of data that we perceive as usually overrated by legal institutions.

Finally, the quote points out that the *relatorios de identificação etnica* do not have a 'role as certificates, since they are edited as diagnoses of the considered social instances, in order to orientate the governmental intervention in the application of the constitutional rights' (ibid.).

Concerning other important issues and obstacles concerning methodology that must be avoided by the researchers committed to *laudos periciais*, some useful points have emerged from the interviews conducted with Brazilian anthropologists.

First of all, we must take into consideration the limited time available to conduct the research and the interviews with speakers who are aware of their ultimate aims. In fact, the anthropologists who had previous surveying experiences hold that the best methodological strategy is that of informing the whole community of the research objectives. Therefore, instead of concealing its purposes, they should attempt to make them as clear as possible, in order to better evaluate and analyse what is said by those interviewed, including any political purposes. Obviously, 45 days are not sufficient to perform research in the field that can be satisfactory from the heuristic point of view. However, this kind of survey cannot be compared to a classic anthropological monograph, as stated by an anthropologist (a top manager of government institutions for indigenous affairs) who conducted surveys:

A *Grupo de Trabalho* [the team directed by the anthropologist and in charge of performing the survey] is allowed an administrative time that does not correspond to the ethnographic one ... Clearly 45 days are not sufficient to perform an ethnographic research, which would take two to three years to define an indigenous land. However, this is not possible nor do the Indians desire it. It is possible to do 'a kind of ethnography' that is superficial and precarious. In the past, the ethnographers that were summoned had been working for years with that group and therefore it was not relevant that there was little time for administration. However, today the ethnologists are fewer compared to the existing number of indigenous areas and are therefore not able to deal with all those areas. Furthermore, nowadays there are many populations that have never been studied or documented. Therefore, when I was the director of the Department of the Identification and Delimitation of the Indigenous Lands, I thought of creating some ethnographic areas with anthropologists to coordinate each one of them, so as to begin performing ethnographical studies of each area and gather some ethnographical data.

We must point out that within such a short period it is impossible to conduct a diligent ethnography, but we must find a way to conduct 'a particular form of ethnography'. If a considered population were already known, it would be possible within 45 days to supply an anthropological survey based on a limited quantity of ethnographic data on a given issue. However, lacking any previous research on the considered group, it is much more complicated to carry out any kind of specialised consultancy. This problem could be partly solved through these proposals of editing some short preliminary studies on some Brazilian regions that are rarely objects of study; these should be performed before indigenous groups make claims.

An important aspect to examine concerns the preferential channels to which anthropologists have access during their research. Despite the practical difficulties and the limited period of time within which anthropologists have to perform surveys, it emerged from some interviews that at times the surveys allow for some ethnographic evidence to come out together with some interesting analytical points that would have been otherwise very difficult to discover.

These particular instances of ethnographical contact between researchers and social actors allow us to gather data and strategies existing within the groups that otherwise would be impossible to notice. In fact, the researcher in these instances is completely involved within a crucial socio-political process of the community that could hardly be noticed and analysed within a different research context.

Pacheco de Oliveira expressed himself very clearly during an interview on his way to conducting a survey of indigenous territories:

For what concerns the territorial demarcations, I always claimed that (in my opinion) anthropology should not present a closed survey on the considered area of application but should instead explain the relationship between the Indians and the national territory, between the Indians and the space around them. However, the decision on the closure and demarcation of a

territorial perimeter is actually just political, given that the interest of the Indians change with time, one day seeking one plot of land and another day seeking another, and the anthropologist is not capable of stating something with scientific certainty ... given that the indigenous claims may change a lot and, in the end, every consideration must be brought into the historical context. Sometimes, the indigenous undergo a lot of pressure exercised by the other inhabitants of the region, they feel fear and in fact, during the process of identification of the lands, claim that they do not desire it. If on that occasion the anthropologist should claim that such land does not belong to the indigenous, he is taking a risk. As a matter of fact, ten years later, when the indigenous may feel stronger and more numerous and will be claiming that land, the words of the anthropologist and his survey will be used as evidence and the Indians will not be able to receive the land. As a result, the anthropologist must picture the combined significance of the relationship between a community and a territorial space and showcase to the Indians the different proposals for the future of the land and leave to the state the power to decide. It is the state that must decide. However, generally speaking, this process is wrongly interpreted as closed and definitive (João Pacheco de Oliveira, 8/11/04, Rio de Janeiro).

The ethnologist-surveyors act in line with an approach emerging from theoretical reflections developed within the discipline (Thornton 1980; Keesing 1982; Ingold 1986; Oliveira 1994; 1999a; Block 1995; Hirsh & O'Hanlon 1995; Shama 1997). They do not perform surveys that aim to determine an immanent and unchangeable relationship between a given land and an ethnic group, since they cannot and would not consider the territoriality an intrinsic characteristic of a social group.

However, apart from the anthropologists interpretations of the role of surveyors, the institutions that ask them to perform the surveys seem to require the researchers to express authoritative and clear judgements, both on the ethnic identity of the groups, as in the past, and on the borders of the lands considered *traditionally occupied*.

As we have seen, the relationship of the anthropologists with the institutions, and therefore the *customers*, is the source of most of the practical problems involved in completing the anthropological surveys. It looks like a relationship between differing languages and theoretical-methodological reference points. There are two potential strategies to approach this specific field: either to produce final reports bent by the pressures exercised by the institutions, and therefore lacking any ethnographical evidence, or to carry out surveys that attempt to provide the specific assistance that anthropology may be able to offer to these kinds of administrative and legal processes, thereby avoiding restraining the research in the field and changing its theoretical outcome. The peculiarity of the research conditions, and the limited time available for it, constitute some unavoidable hurdles for the success of such an anthropological study in contrast to exclusively scientific studies.

The ethnologists, who are actually capable of ensuring that their discipline maintains complete political autonomy and authority on the surveys they conduct, are in fact performing, according to the words of the anthropologist quoted above, *something like*

*anthropology* since it will be the result of a *kind of ethnography*. If this should not happen, the surveys would be the result of a form of anthropology completely submitted to the administrative-political needs and will no longer be anthropological. If anthropologists manage to impose their theories and methodologies in the dialogue with the institutions that appointed them, then a survey can in fact amount to a specialist consultancy. This will not happen as long as the anthropologists produce surveys that adapt to the legal and administrative mindset and language or simply are a copy of the documents written by indigenist NGOs. The surveys that are shaped according to the legal language in order to be more easily understood by the administrative and legal actors are weaker from the anthropological point of view and ineffective for the role they are supposed to undertake. The real difficulty of the anthropologic survey, namely the tension between anthropological and legal knowledge, is impossible to erase.

Given the relevance and authority that anthropology has gained in the Brazilian intellectual community, and its credibility held within the institutions that usually appoint anthropologists for important tasks, the modern challenge is to spread anthropological language, theories and methods outside of the discipline as much as possible. Anthropology and the social sciences have long possessed a strong tradition within the Brazilian academic institutions: famous foreign anthropologists such as Lévi-Strauss and Bastide taught in Brazilian universities. In addition, the influence and prestige of certain academics went beyond the Brazilian academic sphere and achieved renown abroad: for instance the anthropologist Darcy Ribeiro and the sociologist Gilberto Freyre. Amongst the other social sciences, anthropology played a fundamental role: for example the ABA, which held its first meeting in 1953, is the oldest scientific institution in Brazil.

If the institutions want to appoint anthropologists to conduct the surveys, they must consider professionals that are still capable of supplying specialist consultancies while being fully anthropological. Within the Brazilian anthropological community and within the professional association, a group of ethnologists has been involved for the past few years in theoretical reprocessing aimed at controlling the production of *laudós*, from both the ethic-deontological and the theoretical-methodological points of view. On this last aspect, while keeping in mind that surveys are actually a particular form of practice and anthropological production, the intent is not to surrender to the concept that such consultancies are the occasion to put into practice a lower class form of anthropology.

Pacheco de Oliveira, who has greatly committed himself to the analysis and theoretical reprocessing of the concept of anthropological survey, states clearly that:

... it makes no sense to diminish the preparation of *laudós* by considering them as the production of 'secondary' or 'minor' knowledge, as if it was a simple technique put into practice by a group of 'practical' specialists (to be distinguished from the professional anthropologists) ... The preparation of 'laudós periciais' concerns certain issues that require a methodological approach that only a fully qualified anthropologist can possess (1999b: 168).

It is exactly for these reasons that Oliveira opposes himself to the proposal – regularly circulating around the Brazilian academy – to provide two separate routes of university



studies, one for the 'consultant anthropologists' and one for the 'academic anthropologists'. For this academic, the surveys are not part of anthropology applied *tout court*, but to them the character of an external consultancy and their independence define them as what in the United States is referred to as 'anthropological advocacy' (Maybury Lewis 1985): a collaboration between anthropologists and lawyers concerning the solving of legal disputes involving indigenous populations (Pacheco De Oliveira, 1999b: 165).

Daly (2004: 85–6) concentrates on the issue of the anthropologic consultancies and claims that the discipline cannot be at the service of everybody, but can exclusively serve the indigenous people that live within post-colonial contexts. Daly claims that 'our natural allies are the disempowered'. Such an *engagé* approach however should be put into practice only in a professional way, considering both the global processes and the dynamics that cause or have caused cultural changes. In addition, this should be done conscious of the fact that he works within a post-colonial context based on power-struggle relationships and his very role within this socio-economical environment is definitely not neutral (2004: 85–6). In the United States, the *Code of Ethics of the American Anthropological Association* established that 'when there is a conflict of interests, the interests of those studied come first' (Daly & Mills cited by Daly 2004: 84).

During research, the anthropologist finds himself increasingly caught between strong groups. In most cases, he is studying marginal groups have subordinate roles within the active hierarchy existing in the single countries, where the anthropologist can take a fundamental role as a mediator in the event of conflicts or litigation concerning the populations with which he is working.

However, Pacheco Oliveira, whose approach is definitely not destructive in relation to the practice of the survey, warns about totally Indian-friendly behaviour among anthropologists:

We will have to abandon, once and for all, the 'compassionate' attitude and the pretension of acting as saviors of the indigenous populations ... Apart from extremely dramatic and exceptional situations, an anthropologist should not pass as the spokesperson of the indigenous (Oliveira 1999b: 185).

These concerns are emphasized by the fact that such an image is often cited and used by the political adversaries of the Indians who criticise the work done by the anthropologists, considering it not reliable because influenced by an alliance with the Indians that threatens their role as *super-partes* actors.

In the opinion of Strathern and Stewart (2004), the consultancies give a fresh role to the anthropologist, who is now not just a participant observer but becomes also an agent and mediator within the processes of change themselves. Such a position is shared by many other academics: for instance, Brutti (2004) maintains that it is better to act as mediator than as a militant or lawyer of the indigenous.

## Conclusion

As we have seen when analysing the work done by the anthropologists that perform the surveys in Brazil, the *laudos periciais* can be interpreted as technical consultancies that offer to the state a specialist opinion on certain matters, offered to the same judges and officials that are pressing the indigenous populations to claim a certain territory. Furthermore, the anthropologist-surveyors negotiate with the Indians the hypotheses of territorial identification and describe to them the functioning of the process, until they reach a final decision about demarcation. On this decision, the Brazilian institutions have the final word in order to continue towards the formalization of the homologation of the Indigenous Lands. In this instance, the researchers act as mediators between two worlds (the indigenous one and that of the federal administration), committed to a two-way translation.

For the Brazilian anthropologists to refuse to perform the surveys would amount to delegating to somebody else, whether a geographer, historian or political scientist, the right to express opinions and technical advice on issues concerning the socio-political, cultural and economical aspects of the lives of the indigenous communities of the country. Such academics would be called to deal with a series of issues crucial to the future of indigenous populations, issues which they have never dealt with before, and they may not possess the necessary theoretical-methodological tools to understand. The anthropologists therefore feel that, as intellectuals and specialists of the indigenous society, they have to take such responsibility and express their opinions.

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## **POVZETEK**

Članek analizira antropološke raziskave v Braziliji, ki jih izvajajo raziskovalci svetovalci (specialisti etno-antropoloških disciplin) za nacionalne ustanove, odgovorne za uradno priznavanje, katera zemljišča lahko postanejo staroselski rezervati. Proučuje zapletenost brazilskih razmer in teoretska, metodološka ter etnična (identitetna) vprašanja, s katerimi se soočajo antropologi. Članek poskuša odgovoriti na vprašanje: ali lahko antropologija, ki je od leta 1960 razvila posebno analizo konceptov etničnosti in etnične identitete, zagotovi odgovore tem ustanovam v zvezi z etnično identiteto teh skupin in njihovih ozemeljskih meja? Članek poskuša odgovoriti na to vprašanje s sklicevanjem na terenske raziskave, ki so antropologe spremenile v informatorje, ravno tako kot so antropologi Indijance, ki so želeli uveljavljati svoje ozemeljske pravice, spremenili v svoje informatorje. Članek analizira strategije, ki so jih ti brazilski raziskovalci sprejeli med opravljanjem svojih svetovalskih dejavnosti in ugotavlja, da antropologi, ki so se odločili za ta izziv, raje prevzamejo vlogo posrednikov med avtohtonimi skupnostmi in državo, kot pa klasifikantov, postavljenih s strani države in za državo.

**KLJUČNE BESEDE:** brazilska avtohtonost, etnične identitete, ozemeljske pravice, etične odgovornosti antropologije, antropološko svetovanje

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