



**MINISTÉRIO PÚBLICO FEDERAL**  
**PROCURADORIA DA REPÚBLICA NO ESTADO DE RORAIMA**

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**Ofício n.º 009/2006 – MF/MPF/PR/RR**

Boa Vista/RR, January 04, 2006.

**Kenneth M. Weiss, PhD**

Department of Anthropology  
College of the Liberal Arts  
The Pennsylvania State University  
409 Carpenter Building  
University Park, PA 16802-3404  
*Estados Unidos da América*

**Subject: PA 1.32.000.000437/2005-05.**

**Dear Dr. Weiss,**

In March 2002, the Brazilian Federal Public Prosecution contacted you regarding the Yanomami blood samples that might be deposited in your university. Your prompt reply confirmed that there were about three thousand of those samples in your laboratory. Since then the Public Prosecution has been trying to find out in what way those samples were acquired, which institutions hold them, and how they have been used. To this purpose we have obtained statements from Dr. Francisco Salzano from the Federal University of Rio Grande do Sul, and from Dr. Manuel Ayres from the Federal University of Pará, both in Brazil.

We have also asked the National Indian Bureau (Funai), a federal institution in charge, among other things, of issuing authorizations for research in indigenous lands, to send us the research requests involving blood sampling in the Yanomami Indian Land. The first of those, dated 1970, was signed by Dr. Ayres and stated that the proposed research was part of a “global study” already started by Dr. Salzano and Dr. James Neel, consisting in collecting blood samples among the Yanomami of the Catrimani, Mucajaí, and Uraricaá Rivers, and in the “village” of Toototobi or Surucucu, to be sent to the city of Belém, in the State of Pará, and to Ann Arbor. The document also stated that Dr. Neel had already carried out some research among the Yanomami in 1967 with Dr. Ayres’s collaboration during the lab analysis phase.

In 1972, Dr. Ayres informed that the expedition had not occurred and requested the renewal of the authorization. The request was ratified and the expedition occurred in July-August of that same year.

In 1974, Dr. Salzano requested an authorization to take blood and saliva samples among the Yanomami. In this request, he stated that part of the material collected would be sent to the United States. The authorization was granted and Funai authorized Dr. Salzano, Dr. Neel, and other researchers from the University of Michigan to get into the Yanomami Land. In attach you may find copies of these documents.

Nevertheless, those researchers, duly authorized by the Brazilian government to carry out their research, did not comply with the rules of informed consent as established in the international bioethics codes at that time. The Yanomami did not know what would be done with the samples (many were told that the blood taking would bring them medical benefits), neither that their blood could be kept frozen to this day in some far away lab, what deeply offend them.

We are aware of the caution with which you have been handling this issue, and of your opinion on the practical problems involved in the repatriation of the samples. For this reason we would



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like to clarify some points that we believe will help you to take the decision the Yanomami expect from you. First of all, the Public Prosecution is an independent public institution, which is not subordinated to the Brazilian government, as you can see in the following passages of the official translation of the Brazilian Constitution:

*Article 127. The Public Prosecution is a permanent institution, essential to the jurisdictional function of the State, and it is its duty to defend the juridical order, the democratic regime and the inalienable social and individual interests.*

*Paragraph 1 – Unity, indivisibility and functional independence are institutional principles of the Public Prosecution.*

(...)

*Article 128. The Public Prosecution comprises:*

*I – the Public Prosecution of the Union, which includes:*

- a) the Federal Public Prosecution;*
- b) the Labour Public Prosecution;*
- c) the Military Public Prosecution;*
- d) the Public Prosecution of the Federal District and the Territories;*

*II – the Public Prosecution of the states.*

(...)

*Article 129. The following are institutional functions of the Public Prosecution:*

(...)

*V – to defend judicially the rights and interests of the Indian populations;*

The legitimacy of the Public Prosecution of the Union, of which the Federal Public Prosecution is a branch, in charge of the defense of the collective interests of indigenous communities, is stated in Art. 6, VII, “c”, of the Complementary Law n. 75/1993, which regulates its organization, attributions, and statute, as follows:

*Art. 6. The Public Prosecution of the Union is responsible for:*

(...)

*VII - promoting civil inquiry and civil public action for:*

(...)

*c) the protection of the inalienable individual interests and protection of the diffuse and collective interests of indigenous communities, of the family, children, adolescents, the aged, ethnic minorities and consumer;*

We are now at the stage of civil inquiry, which precedes, and often replaces, judicial lawsuits, in case the interests of indigenous peoples are met spontaneously.

We would like to emphasize that this request is not made in the name of a group of individuals, of a village, or a cluster of villages, but rather of the entire Yanomami people as a collectivity, because we understand that one of their collective rights has been violated, namely, the right to carry out their traditional funerary ceremonies.



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Regarding the practical problems of returning the samples and genetic material to the Yanomami, we believe the best way to solve this matter would be that your University deliver them to the Federal Public Prosecution in Brazil, under whose guard they would remain until the Yanomami leaders reach a consensus on to the best way to proceed. This will not represent any difficulty, since the community representatives from many places of the Yanomami Land meet regularly in the town of Boa Vista, capital of the State of Roraima, to deal with the public institution responsible for health care in their area. Although the communities are politically independent, this issue involves an underlying religious matter, which is common to all Yanomami and transcends any disputes that may arise between communities.

These Yanomami representatives recognize the Federal Public Prosecution as an impartial ally, and we can demonstrate it if you wish so, by means of a letter undersigned by these people and other leaders. We should bear in mind that this inquiry began in February 2002 at the Federal Public Prosecution headquarters in Brasília. It was transferred to its Boa Vista unit because it is closer to the Yanomami Land and because it counts on an anthropologist servant whose task it is to help the Deputy Attorney in these matters.

Given the above clarifications, we are convinced that as soon as your institution decides to act in accordance with the request of the Yanomami, they will, with the support of the Federal Public Prosecution, quickly find a solution to everyone's satisfaction.

In case you have any questions or need to contact us without delay, you may send an email to: [mauricio@prrr.mpf.gov.br](mailto:mauricio@prrr.mpf.gov.br)

Sincerely yours,

**MAURÍCIO FABRETTI**  
*Deputy Attorney of Brazil*



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**Ofício n.º 008/2006 – MF/MPF/PR/RR**

Boa Vista/RR, January 04, 2006.

**Gerald Sonnenfeld, Ph.D.**

Vice President for Research  
State University of New York  
PO Box 6000  
Binghamton, New York 13902-6000  
*Estados Unidos da América*

**Subject: PA 1.32.000.000437/2005-05.**

**Dear Dr. Sonnenfeld,**

We would like to thank you and your University for your attention with regards to our request. Following your letter dated on September 23, 2005, we would appreciate if you could let us know whether the State University of New York might be willing to spontaneously return the blood samples and genetic material to the Yanomami representatives who made that claim. But first we would like to clarify a few points.

Since 2002, the Federal Public Prosecution has been trying to find out in what way those samples were acquired, which institutions hold them, and how they have been used. To this purpose we have obtained statements from Dr. Francisco Salzano from the Federal University of Rio Grande do Sul, and from Dr. Manuel Ayres from the Federal University of Pará, both in Brazil.

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**MAURÍCIO FABRETTI**  
*Deputy Attorney of Brazil*