

ARTICLE

## Child Separation and the Stolen Generation of Brazil: Indigenous Peoples' (Un)Freedom in Amazonia

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### Abstract

This article examines questions pertaining to Indigenous people's citizenship status, the problematic definition of orphanhood, rule of law, and structural racism in Brazilian society. The definition of orphanhood was articulated in a way that allowed for the extralegal abuse and racialized exploitation of labor to continue long past the legal end of Indigenous slavery (1755). Indigenous persons' legal status, the definition of orphanhood, and guardianship laws worked together to legitimate the permanence of child separation as a means for wealthier Brazilians to get free child labor. The article uncovers the ambiguities in defining Indigenous people's legal status, making citizenship status a subjective determination contested on a case-by-case basis. With this foreground understanding, the article presents the practice of child separation and the created discourse to legitimize Indigenous, Black, and mixed-race children as unpaid *criadas de casa* (housemaids).

**Keywords:** indigenous children; child separation; orphanhood; wardship; citizenship

### Resumo

Este artigo aborda questões relacionadas à cidadania dos povos indígenas, à problemática definição de orfandade, ao estado de direito e ao racismo estrutural na sociedade brasileira. A definição de orfandade foi articulada de maneira que permitiu que o abuso extralegal e a exploração racializada do trabalho continuassem muito além do fim legal da escravidão indígena (1755). O status legal das pessoas indígenas, a definição de orfandade e as leis de tutela funcionavam em conjunto para legitimar a permanência da separação de crianças como meio para brasileiros mais ricos obterem mão de obra infantil gratuita. O artigo revela as ambiguidades na definição do status legal dos povos indígenas, tornando o status de cidadania uma determinação subjetiva que era contestada caso a caso. Com esse entendimento de fundo, o artigo apresenta a prática da separação de crianças e o discurso criado para legitimar crianças de indígenas, negras e mestiças como “criadas de casa” não remuneradas.

**Palavras-chave:** crianças indígenas; separação de crianças; orfandade; tutela; cidadania

“This street, my darling, this street was the street of rubber, of piassava, of the Indians who came from the interior to work, trade, who lived here ... this was the rubber street ...

But the names of these people are not in history.”<sup>1</sup> That was how Dona Ursula, an “almost one hundred years old Black Indian,” as she calls herself, introduced me to Rua Frei José dos Inocentes, one of the oldest streets in Manaus, Brazil, where she lived most of her life. This street was part of what nineteenth-century newspapers called the “rotten zone” (*zona estragada*) because of its numerous cabarets, brothels, and cheap hotels and pensions (Pinheiro 1999). This neighborhood also has been a zone of precarity for families, women, and children struggling to survive and stay together while navigating the tenuous legal statuses that have shaped the lives of poor Black and Indigenous people from the post-emancipation era to the present.

Dona Ursula’s life story speaks to the precarity of an impoverished childhood and the exploitation of child labor. Born in Manaus, Ursula “was raised at other people’s houses, like a slave . . . I worked hard and was beaten even harder.” Dona Ursula does not have a birth certificate and is unsure of the exact year, but she was born in the 1920s. She does not know if she was ever formally adopted or was raised informally as a domestic servant. When she was young, someone reported one of the beatings she received in the household to the police, who would have had the opportunity to report any irregularity about her “adoption” (*criação*). They did not. When the police took her to the station for questioning, she recalls, “I was so young and so scared that I told them that I fell and came back home.” Nothing changed. She later fled this house and ended up working/living in another abusive household.

Ursula’s childhood experience is not unique. A few days after talking to her, I came upon the story of Angela and Benedicta in the legal archives of Manaus. Around fifty years before Dona Ursula was born, in 1877, two Indigenous girls were kidnapped in the countryside of Amazonas province and brought to Manaus, probably to work as domestic servants in slave-like conditions. The girls had living parents who were legally married and, although humble, had the means to raise and educate them. However, this did not protect the kidnap victims from being considered orphans and having their guardianship rights passed to strangers. This case illuminates the legal principles and mechanisms for granting rights over Indigenous children to nonrelatives and explores the extralegal uses of these laws in distributing these children as workers. Prominent figures of Manaus were all around Angela and Benedicta’s case as perpetrators of the crime, accomplices, and justice seekers. The girls became embroiled in the intricacies of patronage and patrimonialism. Their Indigenous parents, in turn, tried to fight back by deploying the logic of these principles in a judicial fight to reclaim custody over their daughters and bring them home.<sup>2</sup>

The resonances between Angela and Benedicta’s nineteenth-century court case and Dona Ursula’s twentieth-century experiences point to child separation and exploitation as a long-running theme in Brazilian class relations. This is a story of patterns of abuse that started before Brazilian independence and the inauguration of the empire in 1822, which maintained fundamental power relations inherent in colonial structures and continued well after slavery ended in 1888 and the transition to a Republican political system in 1889. Domestic child labor had a crucial role in households (Kuznesof 1998; Geremias 2015). Encompassed in paternalistic logics that undergirded a system of dependency that amounted to bondage, *criadas de casa* or *filhos de criação* merged meanings of nurturing and servitude. Angela and Benedicta’s case illuminates the extralegal practices at play within cases of “legal” guardianships.

<sup>1</sup> Interview with Dona Ursula, October 16, 2017. I am utilizing a pseudonym out of respect for my interlocutor’s identity.

<sup>2</sup> Habeas Corpus, Angela and Benedicta, April 23, 1877, Arquivo Histórico do Tribunal de Justiça do Amazonas, Manaus (hereafter AHTJAM), Juízo de Direito, file JD 29(5).

Kidnapping Indigenous children was not a rare occurrence. My analysis of one hundred and six wardship requests in Manaus's legal archive from 1860 to 1910 showed that kidnapping and forced removal of Indigenous, Black, and mixed-race children from their families was at the heart of how this wardship system worked.<sup>3</sup> Angela and Benedicta, the Indigenous sisters kidnapped from their parental home in 1877, were inserted into this system. But their case had a plot twist: their parents attempted (and succeeded) in using the law and regional political dynamics to regain custody of their daughters. This is a rare case with a happy ending.

The separation of children from their parents and natal kin has been a widespread practice of colonialism, in the Americas, Africa, India, and elsewhere (Heynssens 2016; Jacobs 2005; Mak, Monteiro, and Wesseling 2020; Vallgård 2015). In the colonial histories of the Netherlands and Belgium, scholars have shown that in addition to the forced and permanent displacement of children, "child separation may involve manumission from enslavement and subsequent fostering; discursive, legal and actual 'orphaning' or 'de-kinning'; forced or consensual stay at orphanages and boarding schools; consented or coerced fostering or adoption; or civilising and disciplining programmes at day schools" (Mak, Monteiro, and Wesseling 2020, 7). The most well-known case of violent forced removal of mixed-race and Indigenous children from their families is the Australian "Stolen Generations," a large-scale British colonial project to "whiten" mixed-race children (Read 2006; Payne 2021). We must begin to classify the numerous Indigenous children who were forcibly separated from their families across the Americas as part of the "stolen generations." This term underscores the deliberate colonial tactics of erasure and racism that continue to resonate in our present-day society. As Sen (2007, 465) has observed, "orphaning was not only a metaphor for governance, it was also a problem of governance, and in some situations, a technique for the management of colonised populations."

Children were crucial in colonial policies for dominance, as they were easier to access and represented the future, but the civilizing project targeting Indigenous children persisted long after independence (Chambouleyron 2000; Chaves 2000; Torres-Londoño 1995). As in Belgium, the United States, and Canada, colonial officials in Brazil often used child separation under the auspices of education, both at home and at school, with the additional purpose of imposing "specific morals and lifestyles" on Indigenous and mixed-race children and erasing the marks of Indianness, a practice that continued after independence (Henrique 2010; Kagedan 2020; Mak, Monteiro, and Wesseling 2020). Brazilian government portrayed Indigenous, Black, and mixed-race children as "at risk," especially when under the care of nonwhite single mothers, needing immediate state intervention, and "a risk" to the future of the Brazilian nation.<sup>4</sup> The Philippine Ordinances defined how children should be distributed via wardship (*tutela*) and *soldada*.<sup>5</sup> There was a rapid increase in white men requesting guardianship of Indigenous, Black, and mixed-race children in the second half of the nineteenth century in Manaus. The guardian's ostensible interest was in teaching a trade to children who were in "moral insecurity," that is, living in an environment propitious for moral degeneration (Pessoa 2011).

This article analyzes Indigenous people's freedom and unfreedom on the eve of emancipation in Manaus, northern Brazil, a place/people usually ignored in Brazilian slavery and abolition studies. Several works have illuminated the analytical importance of Indigenous slavery and other labor regimes to understand the construction of the Brazilian

<sup>3</sup> For other works exploring the theme of child labor in Brazil, see Botin (2007); Cavalcante (2014); Costa (2022), ch. 3; Geremias (2015); Henrique (2010); Lima (2019); Miki (2018, 226); Moreira (2020); Papali (2016); Paraiso (2011); Pessoa (2018, 2011); Rangel (2020); Rizzini (2004, 2006); Sampaio and Henrique (2019); Teixeira (2010).

<sup>4</sup> For a discussion about children "at risk" and "a risk," see Coté (2009).

<sup>5</sup> *Soldada* was a labor contract for underaged workers.

nation, and these studies should be incorporated into the broader field of slavery and abolition.<sup>6</sup> The article starts with a discussion of Indigenous people's citizenship in nineteenth-century Brazil, which was a subjective determination enhancing a reality of precarious freedom. Then, after discussing the meanings of *criadas*, I examine what constituted a family in the law and practice as embedded in a Western white patriarchal logic and how that definition impacted the concept of orphanhood. With this foreground understanding, I present the practice of child separation and the created discourse to legitimize *criadas de casa*. Therefore, this article aims to enhance understanding of the nuances within Indigenous labor regimes, moving beyond broad labels like "forced labor" and "illegal enslavement." Specifically, it focuses on the use of wardship and the discourse surrounding orphanhood and children deemed "at risk" to perpetuate the circulation of children as unpaid laborers.

Throughout the text, I use the term *Indigenous people* to refer to native peoples of Brazil. The term *Indian* appears only in direct quotes or translation. *Indian* (in Portuguese: *índio*, *índia*, *índios*) is still used in popular parlance to refer to the various Indigenous groups of Brazil. This term is usually derogatory when used by non-Indigenous people and by turns affectionate in a paternalistic way (*Indiazinha*). It is a term embedded in a history of violence and racism that does not live up to Brazil's diversity of Indigenous cultures. I capitalize the word Indigenous when referring to Indigenous peoples as a sign of respect. The capitalization identifies communities deeply impacted by colonialism, highlighting political and historical realities and giving them the same status as the Spanish, Portuguese, French, and so on.

Patriarchal definitions of family in Brazilian law made most nonwhite families vulnerable. Children were commonly taken away from single mothers and brown and Black parents on the grounds that these children were "at risk" and needed to be rescued by white families following Christian precepts. Such children were legally considered to be orphans even when they had living and capable parents. The definition of orphanhood was articulated in a way that allowed the extralegal abuse and racialized exploitation of labor to continue. Indigenous persons' legal status, the definition of orphanhood, and wardship (*tutelagem*) laws worked together to legitimate the permanence of child separation as a means for wealthier Brazilians to get free child labor.

### "Wild" or citizens?

A robust body of scholarly work has analyzed the dynamics of Latin American slavocracies, showing the complex world of negotiations, displacements, working conditions, resistances, patronage, and extralegal practices. In Brazil, *a força da escravidão* (the force of slavery) engrained those dynamics into the very basis of Brazilian society, where the afterlife of slavery still persistently shows its pernicious effects (Chalhoub 2012; Hartman 2008).<sup>7</sup> For centuries, Indigenous and African enslavement was a strong and essential institution in the Brazilian colonial economy. The abolition process and insertion into Brazilian society created a structural system of hierarchical differentiation marked by the

<sup>6</sup> For a deeper exploration of Indigenous labor regimes during the nineteenth century, offering significant potential to enhance analyses of slavery and abolition in Brazil, see Alves-Melo (2021a, 2021b; Costa (2022); Dornelles (2018); Fuller (2022); Henrique (2022); Jennings (2014); A. R. de A. Machado (2020); Miki (2014, 2018, 2021); Moreira et al. (2022); Sampaio and Henrique (2019).

<sup>7</sup> Chalhoub (2012) analyzes the forces that made Black and *pardos* (Brown) men, women, and children live in precarious freedom with the actuality or the constant threat of illegal enslavement in nineteenth-century Brazil. I combine this discussion on precarity with Saidiya Hartman (2008), who analyzed the structural powers of slavery engrained in all sectors of the contemporary world and called it "afterlife of slavery" to show that precarious freedom and citizenship was also a reality for Indigenous people way after the end of slavery.

precariousness of freedom and citizenship (Castilho 2016; Chalhoub 1990, 2011, 2012, 2015; Fischer 2008; Fischer and Grinberg 2022; Machado and Castilho 2015; Machado 2006; Mamigonian 2017; Mattos 2001; 2013; Reis 1988; Schwarcz and Gomes 2018). This precariousness of freedom and citizenship also affected Indigenous people, making it impossible to exclude them from the equation if we aim to understand the full picture of nineteenth-century slavery (De la Torre 2018; Miki 2014). Miki (2014, 15) analyzed an entangled history of Indigenous and African bondage in the name of territorial conquest in postindependence Brazil, exposing the imperfect “laws governing Indigenous administration or the guarantee of Brazilian citizenship” and demonstrating how the precariousness of freedom and citizenship of African and Indigenous people were the very basis of Brazil’s nation-building. As Miki (2018, 226) asserts, Indigenous slavery “was not a merely rhetorical device,” and “while the fates of African-descended slaves and Indians were clearly linked, the prospect of black freedom was encouraging Indian exploitation.” In this article, I use the term “afterlife of slavery” to also understand the “force of slavery” in Brazilian Indigenous peoples’ complex realities in the nineteenth century.

The “Indian question” or “problem” was at the heart of the discussion regarding the definition of citizenship in the nineteenth century. “Regimes of memory” orchestrated Indigenous people’s insertion into the national discourse through the mythical imagery of Indianism, emphasizing their pivotal role in shaping the era (Devine Guzmán 2013; Oliveira Filho 2011; Treece 2000). The maintenance of slavery and ethnic distinctions in Brazilian society posed serious challenges to this definition, but it was of fundamental importance to resolve this “problem” in order to create the nation (Sposito 2006). Despite the end of the *Diretório Pombalino* (1755) by the *Carta Régia* of 1798 not immediately signifying a rupture and complete elimination of its assimilationist measures and precepts, it is certain that the nineteenth century begins marked by the intensification of conflicts and violence, exacerbating the expropriation of Indigenous lands and forced labor (Sposito 2006, 31).<sup>8</sup> After Brazil gained independence in 1822, intellectuals and lawmakers embarked on a project to forge a unified national identity, aiming for homogeneity within Brazilian civilization. The first constitution of Brazil in 1824, widely regarded as the most liberal of its time, denied citizenship rights to women, slaves, and Indigenous people; “only free men with a certain income range and who shared Western culture would be included” (Sposito 2006, 29). The General Constituent and Legislative Assembly perceived Indigenous peoples as not aligning with the basic tenets of civil society and considered them incapable, excluding them from the constitutional text (Miki 2018, 30; 2021, 3; Slemian 2005; Sposito 2006, 19). Consequently, in terms of legal status, there persists a distinction between “settled” and “wild Indians,” a dichotomy previously prevalent in colonial times but now redefined within the discourse of the empire and the nation. Unlike the colonial indigenist laws, where “wild” Indigenous peoples were still regarded as vassals of the king and entitled to certain rights, post-independence “wild Indians” are not recognized as citizens and are therefore entirely deprived of rights (Moreira 2011). However, they can become citizens when civilized, which reinforces the longstanding notion that Indigenous peoples are constantly in a state of transition progressing toward citizenship. The plan to assimilate Indigenous peoples into civilization was only delineated within the empire with

<sup>8</sup> Part of the measures implemented during the administration of the Marquis of Pombal (1750-1777), the *Diretório Pombalino* or *Diretório dos Índios* was initially aimed at organizing Indigenous peoples’ administration in the province of Grão-Pará and Maranhão, extended to the whole Brazilian territory in the following year. Marquis of Pombal restored freedom to “Indians” in 1755 with the Indian Liberation Law (*Lei de Liberdade dos Índios*) and expelled Jesuit missionaries (Perrone-Moisés 1992, 120). The *Diretório* regulated this freedom regime imposing a wardship system (Sampaio 2012, 20). The *Carta Régia* of 1798 abolished the *Diretório* and considered all “Indians” free. The increase in violence is also evident by the *Carta Régia* of 1808 and 1809, that reinstated the possibility of Indigenous enslaving through Just Wars (Sposito 2006, 29).

the implementation of the *Regulamento das Missões* (1845). However, the conclusion of this transitioning process was never clearly defined.

In terms of Indigenous citizenship, the challenge lay in the legal and political definitions of the “settled” Indigenous people, who constituted a significant portion of the Brazilian population at the time, particularly in the northern provinces. Consequently, the national project persisted in enforcing social and political assimilation, eliminating the category of “settled Indians” in favor of citizenship (Moreira 2011). This shift from “settled Indians” to citizens entailed the forfeiture of Indigenous land rights and the “termination of privileges and rights associated with indigenist legislation and Indigenous identity [*indigenato*] previously guaranteed by the Portuguese Crown under the former colonial regime” (Moreira 2011, 134, my translation). However, these impositions were consistently subject to negotiation and contention by the Indigenous population (Moreira 2011; Radding 2024). Vânia Moreira (2011) highlights the example of Itaguaí, where Indigenous peoples perceived the transition to citizenship and the accompanying increase in responsibilities, such as the mandatory payment of taxes, as a significant advantage, symbolizing the end of the wardship regime. Ultimately, the distinction between “wild” and citizens remained blurred and flexible. Hence, the determination of Indigenous citizenship or wardship was subjective and conducted on a case-by-case basis. This circumstance was especially pronounced in the provinces of Amazonas and Pará during the latter half of the nineteenth century. This period was characterized by significant economic and demographic shifts along the borders driven by the increasing intensity of rubber extraction for export. This industry rapidly expanded across the upper rivers of the Amazon Basin within a few decades, intensifying the dynamics of “contact” between Indigenous communities and the incoming society (Oliveira Filho 1979). In these northern frontiers, the challenge of extending the rule of law due to patronage and relational power, common to Brazilian society (Fischer 2021), was exacerbated.

The organization of Indigenous people as a labor force is connected with the issue of citizenship. Although Indigenous slavery had been legally abolished since 1755, the administrative documents *Circular* of August 9, 1845, and *Aviso* of September 2, 1845, openly report Indigenous children being sold and adults being surreptitiously enslaved in Brazil (Cunha 1992, 146). In the Amazon region, Indigenous slavery extends past the nineteenth century (Sampaio and Henrique 2019, 226). Employing a spectrum framework, akin to the analysis of African slavery and freedom in Brazil (Fischer and Grinberg 2022), proves insightful for comprehending the complexities of Indigenous people’s citizenship and labor arrangements in this context. There have been limited investigations into how Indigenous populations were integrated into the workforce during the nineteenth century, particularly regarding the classifications and methods involved (Sampaio and Henrique 2019, 228). The surge in rubber extraction and the frontier expansion in the Amazon region intensified the exploitation of Indigenous labor. This contrasts with analyses that primarily highlight the role of northeastern migration in the rubber labor force. Indigenous workers remained the primary workforce during this period in the countryside and also crucially contributed to the construction and functioning of Manaus (Alves-Melo 2021a; Braga 2016; Henrique 2022, 2010; Oliveira Filho 1979; Sampaio and Henrique 2019; Soares 2014, 2020). In this period, there was an acceleration in the negotiation and exchange involving Indigenous peoples, leading to a resurgence in past slave routes and the intensification of coercive practices such as forced labor conscription and kidnapping (Cavalcante 2014; Henrique 2022; Pelegrino 2022; Sampaio and Henrique 2019). Indigenous girls and women were specifically targeted to meet the rising demand for domestic workers in Manaus, with the definitions of orphanhood and wardship playing a significant role in facilitating this exploitation, also reinforcing ties between Indigenous women and domesticity (Skinner 2019).



Through the examination of Indigenous child separation in the Amazon, we gain further insights into the analysis of Indigenous citizenship by pivoting toward a cultural examination of the interplay of relational powers affecting Indigenous treatment. Instances of child separation shed light on power dynamics, patronage networks, and, to a certain extent, Indigenous rights. The normalization of “*criadas de casa*” as unpaid labor, intertwined with the difficulty in recognizing domestic work as economic labor in contemporary times, stemmed from a Christian narrative of an “at risk” generation and a perceived favor in offering these children opportunities to work in patriarchal family households (*casas de família*). This article underscores how, in practice, the lack of a clear end to the Indigenous integration plan in a racist society exposed even more Indigenous people to abuse and denial of rights.

### **Criadas de casa: Raised at other people’s houses**

Whether children were living with legal guardians or being informally raised at other people’s houses, poor children were called *criado* (masculine) or *criada* (feminine). Thus, *criadas de casa* or *filhos de criação* had the dual meaning of being raised in the house and being servant in the house (Moraes e Silva 1823a, 510). Education (*educação*) was defined as to raise (*criação*) and the “teaching of things” and decorum (Moraes e Silva 1823b, 660). In this sense, education did not imply institutionalized teaching or even literacy—a meaning developed later in the nineteenth century (Moraes Silva 1890, 722)—but referred to moral “civilization” inside the home to show good manners and decency. Raising (*criação*) poor orphaned children implied discipline and work routine both inside and outside the house.

Children in households that did not conform to the Western ideal of the patriarchal family could be claimed by powerful outsiders. Young girls, primarily Indigenous, were widely used by Manaus’s elite as home servants. Having Indigenous housemaids was a mark of higher social status in the city (Cavalcante 2014, 78). In its classified advertisement section, the newspaper *Correio do Norte* highlighted the preference for young girls as housemaids. In various editions from 1906, families specified the desired age range for servants: sixteen was the oldest age for an acceptable hire.<sup>9</sup> Wealthy households used the discourse of charity and Christianity to take children under their care (legally or not) and to hide the actual role the children played as forced, unpaid laborers.

### **The patriarchal family and orphanhood**

In January 1877, in São Joaquim do Rio Negro, a small village in the far northwest of Amazonas Province, two young sisters experienced what must have been the most frightening situation of their lives. As birth certificates were relatively uncommon, the case did not specify the girls’ age. Angela Simões was nine or ten and Benedicta Simões was seven or eight years old when they were kidnapped from their own house. The girls were sleeping in their hammocks when a local authority, the block inspector (*inspetor de quarteirão*) Joaquim Pinheiro, and five *praças da Guarda Nacional* (an army position corresponding to Private E-1) surrounded their house and forcibly took the girls without furnishing any legal justification. Lieutenant Emilio Augusto d’Oliveira, subdelegate of district police and commander of the fort of São Gabriel, was supposedly the mastermind behind the kidnapping. He took the girls to Manaus. In March 1877, they traveled there on a steamboat, a journey of around ten days with several stops along the way.

The kidnapping of Angela and Benedicta received a lot of attention. One of the newspapers of greater circulation in Manaus, *O Commercio do Amazonas*, in the issue of April

<sup>9</sup> Laboratório de História da Imprensa do Amazonas (LHIA), *Correio do Norte*, May 8, 1906, 168.

21, 1877, reported what had happened in a headlined, “Disrespect for the local authority” (*Desrespeito à autoridade local*).<sup>10</sup> The author noted that a few days after the kidnapping, Lieutenant Emilio was removed from his official post as subdelegate of São Gabriel and was replaced by João José d’Oliveira. Despite having the same last name, these two men apparently had no family ties. With Emilio’s replacement, Joaquim saw his chance to report the kidnapping to the authorities, which, with the help of the new subdelegate, later got to the attention of Barcelos’s municipal judge. About halfway through the trip when the steamboat docked in Barcelos on March 16, 1877, the municipal judge ordered the girls’ immediate release. The newspaper author praised Barcelos’s Municipal Judge for his actions to get the girls back and disparaged Emilio’s violent reaction against the legal order for the girls’ release. Twenty praças stood behind Emilio as he refused to give them up, pointing a gun to threaten the scribe who brought the order. As the *O Commercio do Amazonas* highlights, the author’s concern was not the kidnapping, which was common, but Lieutenant Emilio’s disrespect in not following the orders of the municipal judge to release the girls when the steamboat docked in Barcelos. The author stated that Lieutenant Emilio was “spiteful out of a spirit of vengeance” when he took the daughters of Joaquim Tinoco, “a married man who did not have the authority to fight against this powerful man.” Toward the end of the column, the author also mentioned that the kidnapping was not the first orchestrated by Lieutenant Emilio, suggesting that he took two other “unfortunate” girls from who were never heard from again.

When arriving in Manaus, Emilio brought Angela and Benedicta to Manaus’s orphans judge. Without questioning the circumstances for their appearance there with the supplicant, the judge gave Angela’s wardship rights to João Maria Lourine, a merchant and son-in-law of a powerful captain and deputy, and Benedicta’s to Lieutenant Emilio, the supposed mastermind of the kidnapping. Thus, the girls were legally treated as orphans without consideration of the status of their family.

The Luso-Brazilian legal definition of orphanhood was not limited to a situation of abandonment or destitution. It also reflected a patriarchal conception of the family, the fact of women’s incomplete citizenship status in Brazil, and racialized ableist discourse tied to nineteenth-century concepts of gender roles and race. The law broadly defined an orphan by the absence of the father.<sup>11</sup> This put mothers, especially poor ones, in a very unstable situation; in many cases, they lost their children’s guardianship. The legal base for taking children away from their mothers was the lack of paternal authority (*pátrio poder*) and the legal definition of family. Single mothers thus had no legal control over their household because they had neither a family in the ideal white patriarchal sense nor *pátrio poder* over their children. Orphans judges would also use unwed mothers’ “low morals” as a legal argument to deny their requests. However, mothers often tried to subvert this power dynamic. They negotiated guardians they thought would be suitable for their children (Cavalcante 2014; Pessoa 2011). They refused to send their children away (Pessoa 2011). They reported abuse of the terms of the guardians’ wardship (Botin 2007; Lima 2019). Or

<sup>10</sup> AHTJAM, *O Commercio do Amazonas*, April 21, 1877, attached to file JD 29(05). Similar to other regions in Brazil during the final two decades of the nineteenth century, the Amazonas experienced a surge in newspaper production. These local papers actively participated in debates and critiques regarding the prevailing socioeconomic structure, shedding light on particular issues within Amazonian society like the heightened discourse surrounding labor injustices and conflicts among the elite (Pinheiro 2015). The article from *O Commercio do Amazonas* was in the column “À pedidos” (“Upon request”), a common form in the Brazilian newspapers of the period. It usually served to establish small debates between people who generally were kept anonymous. These columns were paid publications and could contain readers’ opinions, job advertisements, books, among other news (Pinheiro 2015).

<sup>11</sup> Absence in a broad sense: deceased, unavailable, ignored, or not living with the child. Philippine Ordinances [1603]1870, Book 1, Tittle 88, §6, note 2.



they fought to claim their own *pátrio poder* (Lima 2019). Children also resisted, often by escaping from their guardians' houses (Cavalcante 2014; Botin 2007).

On April 23, 1877, a habeas corpus petition filed by the girls' father, Joaquim Tinoco, went under review for Angela and Benedicta's release. The archival records include a series of testimonies used to evaluate his petition. Tinoco was illiterate and had friends and court officials signing documents on his behalf. Before the pages containing his testimony, there is a short letter attached to the court case. This letter was from Thiago Pedro Cordeiro, subdelegate and professor of language and literature in São Gabriel. In this letter, Cordeiro attested that Joaquim and Sebastiana were residents of São Joaquim, legally married, and that Aniceto José, Angela, and Benedicta were their legitimate children. The mother, Sebastiana Maria, is mentioned only once as Joaquim's wife, in the case's introduction. As Cordeiro affirmed, Sebastiana and Joaquim also had a son, Aniceto José, who was older than the girls; he was safe in their custody. Joaquim Tinoco's testimony introduced himself as a farmer born and currently living in São Joaquim do Rio Negro. He explained how the kidnapping happened and added that the block inspector physically attacked him and his wife while forcibly removing the girls. He also stated that he personally brought this incident to the attention of Barcelos's municipal judge.

After Joaquim's testimony, José Antonio dos Reis was asked to speak. José was a merchant from Portugal who lived in São Gabriel. There was no mention of any relationship between the girls' father and this man. Still, José was essential to the case because he also confirmed that Angela and Benedicta were the legitimate children of Joaquim and Sebastiana. He said: "In Rio Negro, everybody knows that [Joaquim] is married and that [he] owns a farm and land and, as such, he has sufficient means to support and educate his daughters. He is always seen in the company of his wife."<sup>12</sup> As a man of good reputation—white, male, educated, with a stable job, and, in this case, European—dos Reis was positioned to serve as an ally confirming the plaintiff's integrity and "capacity for self-governance" (*capacidade de se reger*).<sup>13</sup>

The orphans judge of Manaus was asked to clarify the girls' orphan status. On April 25, 1877, he sent a brief and spiteful letter addressed to the Manaus municipal court stating that he gave the girls' custody to Lieutenant Emilio and João Lourine because they were *pais de família* and had the "means to raise and educate the girls." In his letter to the court, he also stated that the orphans' department "was unaware—and will not be convinced without proof—to the fact that the minors were Joaquim Tinoco's daughters, claiming on the contrary that they are orphans." *Pai de família* can be literally translated as "family man" or "man of the house" and is a term for men who are heads of a household, legally married, and economically stable. This term also carried connotations of respect, superiority, and power in Brazilian society of the period. Similar categories of distinction appeared throughout Latin America. In Chile, for example, the term *padre de familia* carried "additional layers of meanings" beyond the legal definition of someone who exercised paternal authority. *Padre de familia* referred to a morally upright person "who oversaw a legally constituted household that enjoyed at least a degree of material independence" (Milanich 2009, 12). Although the term *de familia* may seem redundant, it actually "obliquely referenced the fact that not all fathers, mothers, or children lived in what were normatively recognized to be 'families,' that is, in patriarchal households" (Milanich 2009, 12). In the eyes of the Orphan Judge of Manaus, the fact that Lieutenant Emilio and João Lourine were both *pais de família* was enough reason not to question how the girls ended up

<sup>12</sup> AHTJAM, file JD 29(05), 55.

<sup>13</sup> *Capacidade de se reger* refer to the idea that Indigenous peoples were intrinsically unable to self-regulate and live a disciplined life and needed to be trained into it. Thus, this term referred to the end goal of the civilizing process imposed on Indigenous peoples, when an individual would be able to display a Western self-presentation, self-sufficiency, and moral fortitude.

with Emilio or to be concerned with how their new guardians would treat them. Although Joaquim Tinoco was also a father in a legally constituted household and a farmer able to provide for his family, at no moment in the court proceedings was he given the honor of being called a *pai de família*.

### Indigenous “family”?

When the time came for Angela and Benedicta to testify, they had to do so with the help of an interpreter because they did not speak Portuguese (there is no mention of their native language). The interpreter was Major Pedro Luis Sympson, born in Manaus and son of a Director of Indians in the Juruá River.<sup>14</sup> He was fluent in General Amazonian Language (Língua Geral, GAL), having been formally educated in this language during his studies at a seminary in Belém, where learning GAL was mandatory from 1851 to 1863 (Freire 2004, 14).<sup>15</sup> In 1877, the same year of the kidnapping, he published a GAL grammar book and dictionary that later circulated in several editions.

Angela and Benedicta testified together, but Angela spoke first. Angela confirmed that Joaquim Tinoco and Sebastiana Maria were her parents, and she pointed at them in the room. The judge asked Angela how she ended up in Manaus. She answered that she was living at her father’s house until one night, a man named Pinheiro came and took her and her sister against their father’s will. She confirmed that they were taken to Emilio’s house and later brought to Manaus. Benedicta’s testimony was very similar to her sister’s, and she also pointed at Joaquim and Sebastiana when confirming who her parents were.

No part of the court case affirmed that the Simões were an Indigenous family. In the earliest pages of the court case, the family was said to be from São Joaquim do Rio Negro; later, the document referred to them as inhabitants of Nossa Senhora da Guia. Both sites were settlements founded as Carmelite villages for catechizing Indigenous peoples; they were approximately thirty miles apart, located at the mouths of the Uaupés and Içana Rivers, respectively (Andrelo 2006, 75).

The Indigenous context of the area where the Simões family was from is important for analyzing Angela and Benedicta’s case. Since 1783, records from travelers, censuses, and other demographic databases have consistently indicated a significant Indigenous population in Nossa Senhora da Guia and São Joaquim (Amazonas 1852, 131; Ferreira 1888, 109; Moreira Neto 1988, 320–21 and 447). This region has also historically served as an important Indigenous slave route since the early eighteenth century; thus, the area was no stranger to raids and kidnappings (Pelegrino 2022). The presence of Major Sympson as interpreter in Angela and Benedicta’s proceeding also hints at the Simõeses’ ethnicity. Together, these clues suggest that the Simões family was from one of the Indigenous groups of the upper Rio Negro. But why was there no mention of their ethnicity in the judicial proceeding?

It was not common to find an ethnic designation in legal documents in this period, except in the corpus delicti exam and descriptions of the most violent offenders. However, this also may have been a strategic decision in the parents’ defense: to not mention the Simões family’s ethnicity or any relation with Indigenous cultures. Since early in the colonial period, Luso-Brazilian treatment of Indigenous individuals had pursued genocide and identity erasure, the latter project intensified after independence to create the ideal homogeneous nation. As I have elaborated, citizenship was purportedly intended for “settled” Indigenous individuals who exhibited no visible “Indianness.” However, racist

<sup>14</sup> The Missions Regulation of 1845 created partial and general Indian Directories in which a Director of Indians was in charge.

<sup>15</sup> “General [Amazonian] Language or Nheengatu, had a remarkable historical role as a means of interethnic communication because it was the main language used in the Amazon, not Portuguese” (Freire 2004).

structures facilitated the exclusion of Indigenous people, subjecting them to precarious citizenship. The avoidance of Indigenous referents in Joaquim Simões's legal argument suggests how Indigenous people may have transformed this imposed invisibility into a survival strategy, especially in the growing city of nineteenth-century Manaus.

The case visibility in the newspapers apparently influenced and sped up Angela and Benedicta's case decision. On May 2, 1877, Manaus's municipal judge, Custodio Pires Garcia, delivered his verdict, highlighting the illegality of the orphans judge and Emilio's actions. He deemed it outrageous that the orphans judge of Manaus should have given the wardship of two minors with living and capable parents to two strangers without an investigation. Additionally, Garcia asserted that the illegality of the orphans judge's actions did not end there. He also suggested that the orphans judge had received a letter rogatory from Barcelos's judge before delivering Angela and Benedicta's guardianship, so he would have been aware that Emilio got the girls via illicit means.<sup>16</sup> The case was concluded in favor of Joaquim Tinoco. The family reunited on May 3, 1877.

### Orphans of the law

The patriarchal definition of family in nineteenth-century Brazilian law does not account for why Angela and Benedicta were treated as orphans if both parents were living, capable, and legally married (i.e., the girls were not illegitimate children). Cases abounded with instances of abuse of Indigenous individuals who had already shown their "capacity for self-governance," which was the supposed criterion for the end of a wardship relationship and transition to citizenship. In fact, the court case at the heart of this article includes several testimonies confirming the legality of Angela and Benedicta's parents' marriage, economic independence, and morals—the criteria for "civilization" and citizenship.

As mentioned earlier, the end of a wardship status and integration was not clearly defined and depended on subjective measurements of "civilization" and the erasure of Indianness. Thus, we can understand how important it was for the case to prove that the Simões family owned a small piece of land and made productive use of it; as a result, the children were not eligible to be treated as orphans. Under the laws covering orphanhood and Indigenous peoples' legal status, Angela and Benedicta's treatment as orphans after being brought to Manaus had no legal basis. Their kidnapping highlights the effects of the difficulty in extending the rule of law and the continuation of abusive colonial practices connected to rescue troops (*tropas de resgate*), *descimentos*, and *aldeamento* policies. These policies were applied in ways that allowed whole populations to be forcibly displaced, families separated, and children kidnapped to start missionary settlements or to serve in private houses and businesses. Indigenous people were still subjected to this kind of violence even after acquiring rights and some degree of citizenship after Brazilian independence. Jessyka Costa (2022, 174; 2023, 419) thoroughly investigated how police subdelegates, like Lieutenant Emilio, were active agents in the orphan trade in the Amazon region and the use of habeas corpus petitions to fight back. Wardship practices stretched the Philippine Ordinances' definition of orphanhood and exposed the precarious citizenship of Indigenous and Black families that often had their familial status disregarded when recruited to work in different locations in the name of civilization, honor, and morals.

<sup>16</sup> A letter rogatory (*carta precatória*) is an instrument used by the justice system when there are individuals in a court case in different districts (*comarca*) in which different jurisdictions are in play.

### Child separation: The afterlife of slavery

The perverse use of the orphan status of poor, Indigenous, and Black children was closely related to patronage and patrimonialism in the allocation of Indigenous children. Angela and Benedicta, illegally put under Emilio and João Lourine's wardship, were survivors of this patronage logic. João Lourine, to whom Benedicta was given, was the son-in-law of Captain Estevão José Ferraz, a well-known figure in Manaus at the time. Captain Ferraz had served twice as a deputy of the provincial legislative assembly of Amazonas, in 1870–1871 and 1876–1877. Dr. Antonio Dias dos Santos, the orphan judge who gave away Angela and Benedicta's wardship rights, also served in the provincial legislative assembly in 1876–1877 and worked with Ferraz on several legislative committees (Santos 2017, 51, 71). The interpreter in the case, Major Sympson, was also a deputy of the Amazonas legislative assembly during the same session. Thus, every one of the bureaucrats and authority figures involved in this case were connected to Manaus's privileged bubble and the intertwined network of patronage logics characteristic of the period.

Paradoxically, the powerful people engaged in taking child workers like Angela and Benedicta away from their parents in 1877 were also key players in the abolition of slavery a few years later, making the Amazonas the second state in Brazil to abolish slavery in 1884. Freemasonry played an important role as Masonic lodges raised funds to purchase manumission, hosted abolitionist events, and published a newspaper called *Abolicionista do Amazonas*. Captain Estevão José Ferraz gave an "elegant speech" at the masonic lodge "Esperança e Porvir" on June 29, 1877.<sup>17</sup> Major Sympson, representing the Legislative Assembly, spoke at an event celebrating the granting of letters of manumission to the last two slaves of the province of Amazonas on May 23, 1884.<sup>18</sup> Last, the growing number of manumission letters filed in Manaus in the 1870s had to pass by the orphans judges for approval (Pozza Neto 2011, 77). Orphans judges were able to distribute Indigenous people and free Africans as free workers within their sphere of influence; "Many judges abused this privilege, amassing great wealth while plunging the Indians in his care into 'quasi perfect captivity'" (Miki 2021, 484). Through a partnership with elites in the private sector, the judiciary was the pivot enabling child separation (Rangel 2020, 53).

The legal treatment of orphaned children from wealthy and poor families differed significantly. Whereas rigor and care surrounded the cases of children with inheritances, the cases of poor children, mainly Indigenous, Black, and mixed race, were handled quickly and without major concerns in the summary process (Azevedo 1995). Orphans judges distributed poor children within a circuit of favors, assigning guardians who usually were planters and merchants with some political influence (Botin 2007; Cavalcante 2014; Lima 2019; Papali 2016; Teixeira 2010). The judges' arguments were again regarding "moral" education (Lima 2019, 76).

Child custody was openly negotiated in Amazonas Province. In negotiations, children were used as pawns, as regional patrons utilized them as gifts and would punish their political enemies by taking their wards away from their care (Cavalcante 2014, 84; Costa 2022, 172). The use of poor children as gifts and rewards was also seen in other parts of Brazil (Lima 2019; Botin 2007). The British naturalist Henry Bates (1863, 193) reported in 1858 in his passage through Ega, present-day Tefé, that "nearly all the enmities which arise amongst residents at Ega and other places, are caused by disputes about Indian servants." Children's ill treatment was also widely reported. For instance, in 1869, the substitute municipal and orphans judge of Serpa, Joaquim Pedro Ferreira, was accused of "malfeasance and abuse of authority" for beating an "Indian minor and giving her

<sup>17</sup> BN/HD, *Boletim do Grande Oriente Unido e Supremo Conselho do Brazil: Jornal Oficial da Maçonaria Brasileira* (RJ), 1877, Edição 00001. The name Estevão José Fenás appears in this journal, my research indicates that Fenás was a typo of Ferraz.

<sup>18</sup> BN/HD, *Abolicionista do Amazonas*, June 1, 1884, Edição 00005.

away.”<sup>19</sup> Bates (1863, 193) also explains that “this species of slave-dealing, although forbidden by the laws of Brazil, is winked at by the authorities, because without it, there would be no means of obtaining servants.” Bates himself benefited from child trafficking and used Indigenous children’s free labor for various tasks—including filling water jars, getting ready for trail riding (*montaria*), climbing the tall, thin trunks of palm trees to collect samples, and so on. Indigenous children (*curumins*) provided crucial assistance in his world-famous explorations.

## Conclusion

Why did Angela and Benedicta’s parents have the ability to mount a legal challenge? This required money and logistics to travel to and stay in Manaus and Barcelos for the court proceedings. The simple fact of the contestation is a puzzle. The records I gathered suggest that the Simões were a humble, uneducated family of farmers “who did not have the authority to fight against this powerful man,” as the *Commercio do Amazonas* reported.<sup>20</sup> However, Joaquin Tinoco and Sebastiana Maria, the girls’ parents, perceived Lieutenant Emilio’s vulnerability at the time of his replacement in the subdelegacy position at the fort of São Gabriel, and they formed a coalition with the new representative to demand the return of their daughters. Thus, Angela and Benedicta’s parents actively used the coincidence of the political dispute in the region to leverage a flawed judicial system that more often than not overlooked violence against nonwhite and poor people. Invisibility was a fluid condition that Indigenous peoples knew how to manipulate, as they benefited from acquired invisibility in an increasingly anti-Indigenous nation.

Angela and Benedicta’s story sheds light on the problematic uses of orphanhood status, patronage, citizenship, unpaid domestic labor, and the spectrum between freedom and bondage on the eve of abolition. Indigenous persons’ legal status was plural and varied according to imposed—and subjective—degrees of “civilization.” In the end, we see *freedoms*, also in the plural, depending on the circumstances and the person it referred to. This case also shows that Indigenous families were not passive victims but capable of developing creative responses to oppression. Unfortunately, Angela and Benedicta’s case was rare in having this happy ending. Putting this case at the center of the citizenship discussion was a way to break with a portrayal of Indigenous and Black people as always suffering and downtrodden and the researchers’ heroic denunciation narrative. They were active in negotiating their citizenship terms.

In a less optimistic tone, Indigenous individuals found themselves entwined in a spectrum of discourses since the colonial period, through the empire and republic, ranging from accusatory and criminalizing to romantic and utopian, embedded within contradictory and antagonistic “regimes of memory” (Freire 2016; Oliveira Filho 2016, 2011). This phenomenon extends across literature, the arts, jurisprudence, and discussions on public policies (Oliveira Filho 2016; Treece 2000). However, within social practices and the expectations they generate, a thread of continuity persists through centuries of colonization. Indigenous peoples are perceived as defeated adversaries, the casualties of war, making them virtually susceptible to various forms of abuse and arbitrariness. This study underscores that, despite the proficiency demonstrated in Indigenous performances, Indigenous individuals are consistently denied complete citizenship due to the enduring racism and racist violence that has persisted since colonization and continues to impact these populations in contemporary Brazil.

<sup>19</sup> AHTJAM, Juízo de Direito, file JD 23(2), 1869.

<sup>20</sup> AHTJAM, *O Commercio do Amazonas*, April 21, 1877, attached to file JD 29(05).

Dona Ursula, Angela, and Benedicta had different life stories, but all were shaped by the afterlives of slavery that persist in racism, unclear laws, weak citizenship, and patronage logics that serve the interests of elites. Their story highlights the persisting precarities and vulnerabilities of Indigenous, Black, and mixed-race people in Brazilian society. This precarious citizenship still has pernicious contemporary effects in the diasporic movements around the Amazon and the current treatment of domestic workers. They bring to the fore the invisibilized domestic work within the paternalistic idea of “*criação*.” Child labor was legitimized through a constructed understanding of orphanhood that represented nonwhite/nonpatriarchal families as a risk to the nation and implemented through a legal regime of wardship that perpetuated bondage and the social hierarchies of the former slavery-based society. The different trajectories of Dona Ursula, Angela, and Benedicta are two extremes in a common history of child separation in the Amazon: one had a rare happy ending, while the other story tells of a lifetime of struggle against racism and violence.

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