

## **Muwaji's Law – Project for Law 1057**

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Date of Presentation: 11/05/2007

Approval: Proposition Subject to Approval by the Plenary Assembly.

Course of Transaction: Ordinary

Situation: CDHM: Waiting to Appear

Summary: To speak about combating harmful traditional practices and the protection of the fundamental rights of indigenous children, belonging to other societies, said to not be traditional.

Classification Tags: Combat, homicide, mistreatment, sexual abuse, newborn, child, Indian, tradition, culture, indigenous community, obligation, denunciation, notification, government agencies, FUNASA, FUNAI, Protection Counsel, judiciary authority, police authority, confinement, offender, crime, omission of aid, demand, withdrawal, minor, rank, shelter.

Dispatch: 21/5/2007 – To the Commissions of Human Rights, Minorities, Constitution, Justice and of Citizenship (Merit and Art. 54, RICD) Proposition Subject to Approval by the Plenary Assembly, Course of Transaction: Ordinary

If you agree with this Law Project, please send your approval to:

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Below is the Law in its entirety.

Project of Law No. 1057 2007

(From Mr Henrique Afonso)

To speak about combating harmful traditional practices and the protection of the fundamental rights of indigenous children, belonging to other societies, said to be non-traditional.

The NATIONAL CONGRESS decrees:

Art.1: To reaffirm values to and investigate traditional indigenous practices and practices of other societies, said not to be traditional, that they shall always conform to the fundamental human rights, established in the Federal Constitution and internationally recognised.

Art.2: For the purpose of this law, considered harmful are the traditional practices that are

attempted against life and physical or mental integrity, such as:

- I. homicide of newborn babies, in situations involving absence of one of the parents;
- II. homicide of newborn babies, in situations of multiple gestation (twins, triplets, etc.);
- III. homicide of newborn babies, when they have a physical or mental disability;
- IV. homicide of newborn babies, due to a gender preference;
- V. homicide of newborn babies, when there has been a short space of time between an previous gestation and the birth in question;
- VI. homicide of newborn babies, in situations where the number of children considered appropriate for a group is exceeded;
- VII. homicide of newborn babies, when they possess some type of birth mark that makes them too different;
- VIII. homicide of newborn babies, when they are thought to bring bad luck to the family or the group;
- IX. homicide of newborn babies, in situations where it is believed that a malnourished child is due to a curse, or for whatever other belief that leads to their intentional death due to malnutrition;
- X. Sexual abuse under any circumstances or justifications;
- XI. Mistreatment upon discovery of the child's physical or mental development problems.
- XII. All other aggression towards the physical or mental integrity of children or their parents, owing to any cultural or traditional manifestations, that are blamed or used as an excuse, that is in violation of human rights recognised by national and international legislation.

Art.3: Any person who has knowledge of suspicious or confirmed cases of pregnancies considered to be in a situation of risk (such as the items mentioned in Article 2), of children running the risk of death, be it by poisoning, burial, undernourishment, or by any other means, will have the obligation to communicate it, preferably by writing, by other means (radio, fax, telex, telegraph, electronic mail, amongst others), or in person to FUNASA, FUNAI, or to the Protection Counselor of the respective locality, or, lacking these options, to the judicial and law enforcement authorities, without threat of other legal steps.

Art.4: It is the duty of all who have knowledge of situations of risk due to harmful traditional practices, to immediately alert the authorities mentioned above, or face charges of liability, by the crime of omission of aid, conforming to strict criminal law, which is established in the case of it not being carried out.

Sentence: Prison sentence from 1 (one) to 6 (six) months or fine.

Art.5: The authorities described in Article 3 answer in the fashion for the crime of omission of aid, when they do not take the appropriate measures immediately.

Art.6: Given the intention of the parents or group in which they pertain persist in the harmful traditional practices, it is the duty of the indicated judicial authorities, to promote the provisional removal of the child and/or their parents from their respective groups and determine their placing in accommodation provided by governmental and non-governmental entities, and registered accordingly in Social Security centres of the rights of children and adolescents. It is also the duty of the same authorities to administer the resolution of problems, always through dialogue, and through persistence in the mentioned practices, until all reachable possibilities have been exhausted.

Sole-paragraph. If all above options have been exhausted, the child should be directed to the indicated judicial authorities in order to be placed in an adoption program with the means of preserving their fundamental right to life and physical or mental integrity.

Art.7: Measures will be adopted for the eradication of harmful traditional practices, always

through education and discussion of human rights, in societies in which these practices exist, as well as with public agents and professionals who act in these societies. The appropriate government agencies will be able to count on the support of civilian society in this intention.

Art.8: This law is put into effect on the date of its publication.