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## BLACK MALE, 19: BRAZILIAN “CRIMINAL COMMANDO” AND THE BREACH OF HUMAN RIGHTS

### *Homem negro, 19 anos: o “comando criminoso” brasileiro e a violação dos direitos humanos*

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#### ABSTRACT

Dental age estimation is a technical procedure performed to support Court decisions in cases of legal liability, clandestine migration, sexual abuse, and several other applications. This study reports a case of an undocumented individual that was originally identified by the criminal legal system (without a previous civil identity). In his identity records, a name was given: “Black male, 19” – indicating his population affinity (African), sex (male) and age (19 years). His body was found decapitated and referred to the medicolegal institute. The dental examination highlighted the presence of a third molar in the very early stage ( $\frac{1}{4}$ ) of root formation. Age was estimated using five methods based on dental development (the methods of Schour and Massler [1941], Moorrees et al. [1963], Anderson et al. [1976], London Atlas [2010], and Blenkin and Taylor [2012]). All the methods indicated that the individual was a minor, within the range between 14.5 and 15.5 years. This study highlights the importance of assigning adequate personnel to technical tasks in the police/forensic routine in order to safeguard human rights.

#### KEYWORDS

Forensic dentistry; Human identification; Human rights; Tooth.

#### INTRODUCTION

The Universal Declaration of Human Rights adopted by the United Nations establishes the right to a legal identity<sup>1</sup>. Identity, in this context, figures as cornerstone to several other rights, such as the right to life, liberty, security and education. Without an identity, a person is invisible to the State and is deprived of dignity. In developing countries, the lack of

identity is more pronounced. Brazil, for instance, has about 3 million people without a legal identity<sup>2</sup>. From a forensic perspective, when these individuals are arrested, their identification is accomplished by the criminal system. In Rio de Janeiro, it is estimated that about 10% of the inmates do not have a civil identity – only a criminal one<sup>3</sup>. These individuals are often referred to as “criminal commandos”. In other words,

criminal commandos are those who become real persons to the society only after committing a crime<sup>3</sup>.

The existence of criminal commandos reflects the difficulties faced by the government to draw strategies for the identification of citizens. A subsequent problem relies on the fact that criminal identifications also may register the potential age of the person together with the alleged name, fingerprint collection and photographic registration. More recently, forensic protocols have recommended that undocumented individuals should be examined for their age based on radiographic evidence of the teeth and bones<sup>4,5</sup>. However, this procedure is not always followed, and age is merely attributed based on subjective visual analysis by untrained police personnel.

This case report aims to describe the autopsy of a criminal commando found decapitated, and presenting age-related biological features that were incompatible with the age registered in his criminal identity records.

## CASE REPORT

In 2023, an unknown male was referred to the State medicolegal institute for odontological and anthropological examinations in Southwest Brazil. The examinations aimed to contribute to the investigation of the cause of death and human identification. The individual was found together with his own decapitated head in a trash can. Gunshot injuries were observed in his body. Fingerprint analysis revealed that the individual was a criminal commando registered as “Black Male, 19” –

a name that reflected the individual’s populational affinity, sex and age.

The external assessment of the body confirmed the individual’s African population affinity (described as “Black”) and male sex. Dental and medical records were not available and hampered other investigations towards a potential identity. The *postmortem* dental examination, however, showed a fractured permanent maxillary central incisor, an incisor-like supernumerary tooth on the lingual aspect of the permanent mandibular right canine, a metallic plate on the lower aspect of the mandible from the permanent mandibular second premolar to the midline, and a *perimortem* mandibular fracture in the midline and in the body of the mandible. The fracture enabled the partial visualization of the apices of the mandibular right teeth, and the third molar (Figure 1).



**Figure 1 – Dental autopsy showing a fractured mandible (A) and a third molar with incomplete root formation (B,C) used for age estimation.**

All the mandibular right teeth were fully developed and presented closed apices. The third molar (tooth 48 - FDI) was retrieved to help establishing the biological age of the individual since it presented about  $\frac{1}{4}$  of root formation<sup>6</sup>. Dental development staging was performed *ex-vivo* following the recent scientific literature that supports this procedure from originally radiographic techniques<sup>7</sup>. Age estimation

was accomplished with the methods of Schour and Massler (1941)<sup>8</sup>, Moorrees et al. (1963)<sup>6</sup>, Anderson et al. (1976)<sup>9</sup>, London Atlas (2010)<sup>10</sup>, and Blenkin and Taylor (2012)<sup>11</sup>. The mean estimated dental ages were 15 years, 14.5 years, 15.5 years, 14.5 years and 14.5 years, respectively (Table 1). The estimated age limit was between 14.5 and 15.5 years according to the

applied methods. None of the age estimates was close to the registered age of 19 years presented in the individual's criminal identity records. All the age estimates indicated that the individual was a minor based on the current legislation that sets the age of 18 years as the age of legal majority.

**Table 1 – Dental age estimation based on third molars and the mean estimated ages for each method.**

Method	Year	Tooth*	Mean estimated age
Schour and Massler <sup>8</sup>	1941	48	15 years
Moorrees et al. <sup>6</sup>	1963	48	14.5 years
Anderson et al. <sup>9</sup>	1976	48	15.5 years
London Atlas <sup>10</sup>	2010	48	14.5 years
Blenkin and Taylor <sup>11</sup>	2012	48	14.5 years

\*Dental notation by FDI World Dental Federation

## DISCUSSION

Proper legal identification requires the application of technical expertise that can be found only among trained professionals. The process of registering someone's identity is partially documental and partially biological. The documental aspects the identification include the registration of names (from the individual and parents, for instance), date of birth, and place of origin, among other information. From the biological perspective, fingerprint collection is a fundamental component that is mandatory in most countries. In criminal identifications, the amount of data to be registered is reduced, and for this reason it should as accurate as possible. This case report illustrates how the subject judgment of age can harm human rights by assigning the age of majority to a minor.

When the age of 19 years is assigned to "Black Male, 19" (being the person a minor) it also impacts, automatically, the type of penalty that could

be assigned the individual. In Brazil, the criminal penalties for minors are regulated by The Child and Adolescent Statute, and they are social-educational, such as warnings, obligation to repair de damage, provision of services to the community, supervised liberty, and admission in social-educational facilities (in partial of full-time regime)<sup>12</sup>. On the other hand, adults have more severe corrective penalties that can last longer. Because the age of 19 years was assigned when he was arrested for the first time, the individual depicted in this report was probably referred to corrective facilities without the possibility of having a more compatible penalty. The age in this case is assigned by police personnel that are not specialized in the forensic field, while the age is given without any scientific support. In this context, forensic odontologists are fundamental in police services to guarantee that age will be estimated adequately.

Dental age estimation of the living has been used to support Court decisions in cases of criminal liability, adoption, clandestine migration, child pornography, sports practice, and retirement<sup>13</sup>. When it comes to the deceased, the role of age estimation is the support the identification process. This case was especially challenging because there was no *antemortem* data and the only description about the person was the criminal identity stating his population affinity, sex and age. The only aspect that could be confirmed by the age assessment procedure at the end of the forensic examination was that the “Black Male, 19” was not 19 years and was a minor. Even with the inherent error rates that third molar age estimation has,

assigning the age of 19 years to an individual within the very early stages of third molar formation would be improbable.

Police services must be aware of forensic odontology as a fundamental tool to ensure human rights, especially when age estimation is necessary in the criminal scenario.

## FINAL CONSIDERATIONS

Trained forensic personnel must be assigned to the technical tasks that are necessary in the routine of identification services (regardless of the civil or criminal context). With proper age estimates, the human right to an identity is assured, as well as all the inherent human rights that depend on an existing individual identity.

## RESUMO

A estimativa da idade dentária é um procedimento técnico realizado para apoiar decisões judiciais em casos de responsabilidade legal, migração clandestina, abuso sexual e diversas outras aplicações. Este estudo relata o caso de um indivíduo indocumentado que foi originalmente identificado pelo sistema penal (sem identidade civil prévia). Nos seus registos de identidade foi atribuído um nome: “Homem negro, 19 anos” – indicando a sua afinidade populacional (africana), sexo (masculino) e idade (19 anos). Seu corpo foi encontrado decapitado e encaminhado a um Instituto Médico-legal. O exame odontológico evidenciou a presença de um terceiro molar em fase muito inicial (¼) de formação radicular. A idade foi estimada usando cinco métodos baseados no desenvolvimento dentário (os métodos de Schour e Massler [1941], Moorrees et al. [1963], Anderson et al. [1976], London Atlas [2010] e Blenkin e Taylor [2012]). Todos os métodos indicaram que o indivíduo era menor de idade, na faixa entre 14,5 e 15,5 anos. Este estudo destaca a importância de designar pessoal adequado para tarefas técnicas na rotina policial/forense, a fim de salvaguardar os direitos humanos.

## PALAVRAS-CHAVE

Odontologia legal; Identificação humana; Direitos humanos; Dente.

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