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DISPUTES IN JURIDICAL FIELD AND DEVELOPMENT DISCOURSE: THE THERMOELETRICAL COMPLEX PARNAÍBA CASE, MARANHÃO/BRA

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ABSTRACT

The socio-environmental conflicts caused by projects that host large power generation projects reveal a scenario marked by resistance from traditional peoples and communities, impacted by these economic policy decisions. The confrontation leads to questioning the effectiveness of the interlocution between development discourses as a right and the disputes that occur in the social, economic and political field, and it is necessary to inquire whether, in fact, they serve to guarantee the protection of the rights of traditional peoples and communities. The general objective of this article is to analyze the protection of the rights of vulnerable and traditional social groups, especially in the case of babassu coconut breakers, unfolding it in the presentation of a theoretical scheme of the relationship between the discourse of development and the legal field, from the performance of specialized and non-specialized agents in the judicial process, taking as object of study the socio-environmental conflict caused by the Parnaíba Thermoelectric Complex, in Maranhão, Northeast of Brazil. Methodologically, it was decided to carry out the case study and the qualitative research based on data obtained in documentary research. It is concluded that the difficulty in legal solution of conflicts involving large

economic enterprises and the rights of traditional peoples and communities occurs largely because of the discourses that disqualify the visions of non-specialized agents.

KEYWORDS: environmental conflicts; babassu coconut breakers; development discourse; juridical field; human right to development. Parnaíba Thermoelectric Complex.

DISPUTAS NO CAMPO JURÍDICO E DISCURSO DO DESENVOLVIMENTO: CASO DO COMPLEXO TERMOELÉTRICO PARNAÍBA, MARANHÃO

RESUMO

Os conflitos socioambientais provocados por empreendimentos que abrigam grandes projetos de geração de energia revelam um cenário marcado por resistências de povos e comunidades tradicionais, impactadas por essas decisões de política econômica. O confronto leva ao questionamento da eficácia da interlocução entre os discursos do desenvolvimento como direito e as disputas que ocorrem no campo social, econômico e político, cabendo indagar se, de fato, servem para garantir a proteção de direitos de povos e comunidades tradicionais. O objetivo geral do artigo é analisar a tutela de direitos de grupos sociais vulneráveis e tradicionais, nomeadamente no caso das quebradeiras de coco babaçu, desdobrando-o na apresentação de um esquema teórico da relação entre o discurso do desenvolvimento e o campo jurídico, a partir da atuação de agentes especializados e não especializados no processo judicial, tomando-se como objeto de estudo o conflito socioambiental provocado pelo Complexo Termoelétrico Parnaíba, no Maranhão. Metodologicamente, optou-se pela realização do estudo de caso e da pesquisa qualitativa baseada em dados obtidos em investigação documental. Conclui-se que a dificuldade na solução jurídica dos conflitos envolvendo grandes empreendimentos econômicos e os direitos de povos e comunidades tradicionais ocorre, em grande medida, em função dos discursos que desqualificam as visões dos agentes não especializados.

PALAVRAS-CHAVE*: conflitos socioambientais; quebradeiras de coco babaçu; discurso do desenvolvimento; campo jurídico; Complexo Termoelétrico Parnaíba.*

INTRODUCTION

The context of Brazilian development is marked historically by several conflicts involving traditional peoples and communities. In this sense, we can highlight recently the conflicts involving the duplication of the Carajás-São Luís railroad, the implementation of the Alcântara/MA Launch Center and, with greater national prominence, the case of the Belo Monte Hydroelectric Plant in Pará. Common to all of them, the evident contraposition between the ways of being, of creating and living of vulnerable social groups, highlighting traditional peoples and communities, and the economic activities undertaken under the shield of the discourse of economic development.

The operationalization of development discourse requires constant rearrangement of physical space, social relations and cultural practices .Thus, large investment projects, export economic activities, import of technologies, intervention of international capital and others are part of the agenda, provoking situations of conflict with groups whose ethnic and cultural traits are opposed to the representation of the dominant reality.

Thus, the problem analyzed in this article consists in investigating to what extent the interlocution between development discourse and the legal field influence the protection of rights of traditional peoples and communities, such as those of babaçu coconut breakers in conflict with the Parnaíba Thermoelectric Complex, in Maranhão. That said, we face the problem regarding the delegitimization of those ethnic groups in the face of conflict resolution, since the monopoly of discourse can have negative repercussions, discrediting the ways of being, living and creating of peoples and traditional communities.

The general objective is to analyze the protection of rights of said social groups in the legal field, using the case of the Parnaíba Thermoelectric Complex as an example. Specifically, the first take is to present a theoretical framework of the relationship between development discourse and legal field, using theoretically the schemes formulated by Bourdieu (1989, *in passim*), Escobar (2007, *in passim*) and Dezalay and Trubek (1998, *in passim*) . Next, describe the socioenvironmental conflict involving communities of babaçu coconut breakers in the said case, according to documentary research. Finally, we analyze the performance of specialized and non-specialized agents in the legal field, adding to the

theoretical reference the contributions of Shiraishi Neto (2007 , *in passim*), Andrade (2017, *in passim*) and Geertz (2013, *in passim*) .

The article's theoretical option is based on the attempt to consolidate an approach based on juridical sociology, making it possible to understand the actions of the agents involved in the conflicts regarding development and traditional peoples and communities. That said, it surpasses a strictly juridical view of the matter, entering into the existing dialogues with political, economic, social, etc. aspects.

As for the methodological construction of the object in study, it followed the method of social research with inductive character, empiricist, whereas the method of legal research is better situated in the context of hypothetical deductive type. Following the schemes presented by Flick (2009, *in passim*), we chose to perform a quantitative research, with interdependence between the conceptual, methodological and experimental stages, thus, it begins from a case study, in which there was selection and reconstruction of an adequate situation to the tests on the problem, that is, the social-environmental conflict between traditional populations and the Thermoelectric Complex Parnaíba, in the State of Maranhão, Brazil. In order to collect data, in the jus-economic and jus-political interface of the issue, doctrinal argumentation and documentary research are used, being elected thirty-nine documents, cited throughout the text and referenced at the end, in a specific section.

The object-debate of this article is relevant both because it shows similarities to other situations that involve conflicts between large economic enterprises and traditional populations in Brazil, and because of it's legal importance. The main proposition is the possibility (or necessity) of rupture with the naturalization of discourses and practices that result in the delegitimation of the worldviews of those populations. Insofar as a relationship between development discourse and legal practices is identified, the translation of conflicts into the legal field, marked by monopoly and exclusion, results in the removal of the reality of certain ethnic groups.

1 ON THEORETICAL ASSUMPTIONS: ON THE INTERLOCUTIONS BETWEEN THE DEVELOPMENT SPEECH AND THE LEGAL FIELD

The Brazilian scenario is marked by several socioenvironmental

conflicts, caused by a plurality of factors. One of them concerns economic policy actions and government decisions that result in major economic developments, especially in the field of mining and power generation, which in general provoke resistance and dissonance in the affected populations. This is observed in cases involving traditional peoples and communities, posing as challenges in the legal solution due to their ethnic and cultural aspects, as will be punctuated in the case of the traditional population affected by the Parnaíba Thermoelectric Complex.

This scenario of conflicts between traditional peoples and communities and large enterprises is highlighted in different situations in Brazil. In the light of several examples, we can highlight the duplication of the Carajás-São Luís railroad in Maranhão and Pará, which consolidates an export corridor for the generation of *commodities* , such as minerals and grains (BRUZACA, 2013 , *in passim*); the launch center of Alcântara, in Maranhão, linked to the search for aerospace development and that resulted in the removal of quilombola communities from the locality and restrictions on their way of being, living and creating (SOUZA FILHO, 2013, *in passim*); the construction of the Belo Monte Hydroelectric Plant in Pará, focused on the generation of energy and resulting in socioenvironmental impacts, especially regarding the indigenous population (FRANCO, FEITOSA, 2013, *in passim*).

Examples are intimately related to the discussion about development and are often brought to debate in the legal field. It is precisely here that one can identify a reification of conceptions regarding development that exacerbate socioenvironmental conflicts. This is the case of "economic development", which is conceptualized by Feitosa (2012, p. 41) as an expression limited to economic aspects, which served to impose political experiences on the so called developing countries.

For this identification, it is necessary to present the theoretical assumptions that allow to highlight the relationship between what is here referred to as "legal field" and development discourse. According to Bourdieu (1989, p. 212), this field concerns the monopoly's place of competition to law discourse, confronting socially and technically competent agents to interpret a set of legal texts. The observation of this relation is extracted from the expositions of Dazalay and Trubek (1989, p. 31), for whom, the logic of the legal field is influenced by forces and logics present in the economy, in the State and in the international order, "constituting a 'homologous microcosm' of a major social phenomenon."

In this sense, the discourse of development can be observed in the midst of such forces and logics. Fields are considered by Bourdieu (2004, p. 21) as a social world, which imposes and demands relatively independent of the pressures of the global social world. External pressures are exerted through the field. For the author, “every field [...] is a field of forces and struggles” - with the legal field it is no different, there being interlocution with external social relations in tune with the internal game.

Even the legal field, which contributes to the maintenance of the symbolic order and the social order, has a lower autonomy than other fields. This means that external changes imply it more directly and that internal conflicts are solved by external forces (BOURDIEU, 1989, p. 251). Thus, there are relations between the field and external factors and, in this sense, the national fields influence the global processes and are influenced by them.In a circular way, this movement provokes the transformation of practices into national legal fields that contribute to the integration of the economy and to the transformation of systems of government (DEZALAY, TRUBEK, 1998, p. 31-32).

However, in identifying the presence of the development discourse in logic and economic forces, it can be seen that countries do not occupy the same position in the definition of global processes and, in this way, influence and undergo transformations in different ways. To Escobar (2007, p. 11) development as a discourse must be understood as a “regime of representation”, that is, an “invention” coming from the context of post-World War II, shaping reality and social action of countries considered underdeveloped. In Latin America, the adaptation of neoliberal revenues and benefits to capitalists and dominant sectors of the world has been observed, harming workers, the environment, subalterns and different cultures.

This is the period in which, according to Esteva (1996, p. 53), the “era of development” was inaugurated with the speech of the then President of the United States of America, Harry Truman, in 1949. In this speech, Truman (1949, s. p.) emphasizes the need to benefit from technical-scientific progress “underdeveloped areas”, marked by situations of misery, food shortages, diseases and economic difficulties. It coincides with the period characterized by Feitosa (2009, p. 36) in which there is recognition of the effectiveness of development programming, guided by effort and reason, in favor of emerging countries.

Thus, since its diffusion, the discourse of development is

guided by international agencies, specialized agents, that is, countries of the “First World”. Such diffusion resulted in the elaboration of policies, plans, economic projects and legal norms capable of making possible the transplantation of models, the intervention of the foreign capital and the construction of enterprises[1]. Consequently, it has resulted in the reduction of complex social, cultural and economic conditions in countries considered “Third World”, such as Brazil[2].

Escobar (2007, p. 87-88) asserts that problems in political and cultural spheres have led to an apparently more neutral field of science, leading to policies and knowledge with strong normative components. With this, a regime of truths and norms is produced, not emphasizing the consequences to groups and countries in question.

In short, the relations that involve the discourse of development are external to the legal field, influencing this and consequently the content of texts, practices and the sense of law. The discourse of development contributes to the homogenization of the representation of the world from the perspective of developed countries, excluding other forms of representations. Thus, in agreement with Dezalay and Trubek (1998, p. 40), the interference of transnational forces and the hegemony of one national field over others are related to the regulation, protection and economic legitimation of a given national space.

Nevertheless, the diffusion of the discourse of development has triggered and aggravated conflicts in the countries considered “Third World”.In Brazil, the conflict with traditional populations is observed in several situations, as in the Amazon region.It is observed the antagonism between the forms of life of the traditional communities and the idea of development carried out by the decisions of the State when it encourages the occupation of lands by the monoculture of *commodities*, by the exploitation of ores, by the intensification of the use of energetic resources,

1 This is observed in the studies on law and development, a movement accused of ethnocentrism and imperialist pretensions (FEITOSA, 2009, p. 44), which advocated a view of the need for transplants of institutions, presupposing knowing the way to development (RODRIGUEZ, et al., 2009, pp. 249-251). Such “legal transplantation” referred to the administration of justice, contract and property, to the centralization in market economy, believing that reforms could take place in all parts and levels of the legal order, fit in all countries and imposed from top to bottom (TRUBEK, 2009, p. 203-204).

2 In Brazil, it is possible to identify the influences and transformations provoked by the development discourse. An example is the period after the second cycle of developmentalism in which dictatorial governments, preserving their particularities, consolidated a bureaucratic state organization and legal system that allowed the penetration of foreign capital in the country, especially in the Amazon region, in the name of development and of overcoming the delay (BRUZACA, SOUSA, 2015, p. 150-154).

marked by a predatory character (SHIRAISHI NETO, 2011, p. 27).

It is understood that the discourse on development consolidates a conception that is far from broadening, as Feitosa (2012, p. 43) argues, the dialogues on the "cultural, political, social, ideological and human features of the development process" which involve an inter and transdisciplinarity between law, anthropology, sociology, etc. In fact, one observes the atrophy of reality, replicated in the legal field, resulting in disrespect for rights, as for those of traditional peoples and communities.

This expansion would be aligned with the promotion of the "right to development" and its coexistence with the "right of development"[3], since it is situated in the universe of human rights and thus respects cultures, environment, solidarity and popular participation (FEITOSA, 2013, p. 174). In this way, it has a transnational base and a protective nature, transcending the constitutional treatment of matter, different from the "development right", which has a constitutional seat, establishing economic and financial parameters for confronting social and economic problems (FEITOSA, 2012, p. 43). Precisely , the primacy of the "right of development" may be aligned with the discourse of development. This is due to the distancing of conceptions stemming from the enlargement provided by the human rights perspective, such as those concerning respect for ethnic, cultural, economic and social aspects of traditional populations.

Traditional populations, once characterized according to geographic location and "cultural isolation", now refer to the claim of social groups and peoples in the face of the State, manifesting itself as a right to the diversity of collective self-definition.It is part of the discourse and acts of such groups and peoples, represented by: "quilombolas, seringueiros, ribeirinhos, artisanal fishermen, babaçu coconut breakers, castanheiros, faxinalenses, garaizeiros and piaçabeiros, among others" (ALMEIDA, 2007, p. 11-12).

Franco and Feitosa (2013, p. 94) point out that the promotion of economic investments, defended as progress and part of the national

3 In this compass, the theoretical understanding of the relationship between law and development requires a preliminary epistemological positioning. Feitosa (2013, in passim) separates what he calls "right of development" and "right to development", in the wake of known characterizations, such as labor law and the right to work, education law and the right to education, punctuating the factors that make one and other more or less effective. According to this construction, the right of groups and traditional communities to development differs from the law applied by state actors, knowing that the first is based on solidarity and the second by rules of cooperation, and especially that the ownership of the former lies outside of official categories, such as traditional populations or future generations, while the ownership of the latter is preponderantly state. This distinction leads to the inclusion of development law as a branch of economic law and the right to development as a branch of human rights, with its own unfolding.

project, generate geophysical, economic and cultural impacts that affect traditional populations. According to these authors, because of their ethnic and cultural particularities, these populations attribute importance to the territory, marked by traits of collectivity and by the inexistence of exclusively monetary value.

This results in conflicts, often characterized as socioenvironmental, whose impacts suffered by traditional populations lead to political mobilizations, social manifestations and, often, questions in administrative and judicial channels. This entails their entry into the legal field which, in addition to being influenced by the discourse of development, is confronted by the worldview of those social groups.

It occurs that not everyone participates in the legal field, being a demarcation of who participates or not, that is, a border between those who are in the game and those who are thrown into the field, but who remain excluded (BOURDIEU, 1989, p. 225).On the one hand, among those who participate in the game are agents specialized in competition for the monopoly of saying what is law - lawyers, judges, academics. On the other hand, there are non-specialized agents, who are the excluded and the non-professionals, that is, the clients - the traditional populations can be included here.

In this sense, the traditional populations are not included in the condition of professionals able to handle the existing instruments in the legal field, being subject to the practices of those legitimized for such. Thus, the recognition and resolution of such conflicts, inserted in the juridical field, would imply, according to Bourdieu (1989, p. 29), in a mediation by third parties, with the loss of the appropriation of its own cause.

Specifically in relation to the socioenvironmental conflicts caused by development, it should be noted that the discourse of this also results in exclusions. This is because the production of discourse is controlled, selected and organized by procedures that determine what, who and when one can speak (FOUCAULT, 2014, p. 8-9). Specifically, there are processes of institutionalization and professionalization in which poor countries are known, defined and constituted as the object of development intervention, operating mechanisms that convert it into real and active force, structured by knowledge and power (ESCOBAR, 2007, p. 86). In short, traditional populations would not be able to say what development is.

On the other hand, the recognition and denial of the rights of ethnic groups in the global order has fluctuated, but recognition of legal

provisions has been observed. Thus, the juridical field of "ethnic law" opens up a space for new juridical interpretations, breaking with legal schemes pre-conceived from the perspective of traditional peoples and communities (SHIRAISHI NETO, 2007, p. 26-28). It is based on the articulation of those proposed groups of legal provisions, interpretations of texts according to their interests and desires, search for participation in the judicial space (SHIRAISHI NETO, 2011, p. 31-32).

Although social and environmental conflicts involving traditional populations and development induce to a disqualification of these situations, whether through discourse or the logic of the legal field, resistances can have repercussions on ruptures with the traditional legal view. The case of the Parnaíba Thermoelectric Complex serves to contribute to the reflection on the capacity of the legal field to protect the rights of traditional populations, making it possible to identify in the case study its functioning and its relation with development discourse.

2 OF THE CASE: ON THE SOCIO-ENVIRONMENTAL CONFLICT CAUSED BY THE PARNAÍBA THERMOELECTRIC COMPLEX

The case of the Parnaíba Thermoelectric Complex, installed in the municipalities of Santo Antônio dos Lopes and Capinzal do Norte, in Maranhão, is one of the other cases in the state that involve traditional populations and ventures associated to development discourse. Such a case will make it possible to exemplify both the resistance of traditional populations and later the functioning of the legal field and its relation to development discourse.

The Parnaíba Thermoelectric Complex consists of an operation currently undertaken by the company ENEVA S/A, being a thermal park for the generation of natural gas energy, one of the largest in Brazil, consisting of four plants: Parnaíba I Geração de Energia, Parnaíba II Geração de Energia, Parnaíba III Geração de Energia and Parnaíba IV Geração de Energia, whose operations date to 2013 (ENEVA, 2017, s. p.).

The project is framed as "peasant expropriation processes", resulting in reactions and mobilizations for those affected, such as those in the Demanda community (COSTA, ANDRADE, 2013, p. 54-55). To the Demanda and Morada Nova communities, affected by the enterprise, the notion of community or traditional population is applicable, having a relation with nature "anchored in the mobilization of specific knowledge,

constructed and reproduced from the relation with certain ecosystems" (ANDRADE, 2017, p. 63). The expropriation of these align with the displacements resulting from development, which according to Escobar (2003, p. 157), have repercussions on the conquest of territories and people, as well as their ecological and cultural transformation according to rational and logocentric bases.

The enterprise can be characterized as part of a very specific Brazilian development scenario, named by some of "novo desenvolvimentismo"[4] (new developmentalism).This concept holds that economic growth and development promote social welfare, based on policies and intervening in the economy (MILANEZ, SANTOS, 2013, p. 4), being considered the only national design and converting peoples and communities into obstacles (SANTOS, 2013 , p. 108).

Moreover, the enterprise is inserted in a specific Maranhão and pre-Amazonian context that, according to Costa and Andrade (2013, p. 54), is marked by the implementation of economic projects "linked to the agribusiness, aerospace, energy, mining and steel mill". These were accompanied by changes in infrastructure, land concentration, state incentive and the reconfiguration of agrarian space, resulting in conflicts.

Regarding the project, the mobilizations contrary to it date of 2011, with questions from the Movimento Interestadual das Quebradeiras de Coco Babaçu (Intersectoral Movement of the Babaçu Cocconut Breakers) on the installation of the thermoelectric plants undertaken, at the time, by the company MPX Energia S/A. Although socioenvironmental impacts affected traditional populations, an environmental license was obtained (BRUZACA, SOUSA, 2013, p. 275-276).

In this sense, we observe the legal exhaustion of environmental policy, in which the licensing procedures are considered as merely formal (FRANCO, FEITOSA, 2013, p. 95). In addition, this scenario is recorded by the symbolic nature of the technical format of the documentation, which disqualifies and delegitimises the populations affected, as well as their speeches (ZHOURI, 2008, p. 102), as is the case with communities affected by the Parnaíba Thermoelectric Complex.

4 The term "new developmentalism" deserves caveats in its use. For Bresser-Pereira (2016, p. 153), "new-developmentalism" is a school of economic thought, as opposed to classical developmentalism, which deals with such issues as: nation-state formation, class co-ordination for industrial and capitalist revolution, and the critique of modern imperialism. On the other hand, Santos (2013, p. 92-93) considers to be an economic model characterized by state centrality, sharing of economic surplus and state intervention in the market. Complementing this, Sicsú, Paula and Michel (2007, p. 512) point out a regulation of the economy observed by financing productive activities and complementing private actions.

According to Andrade (2017, p. 28), traditional populations affected by large economic enterprises, such as the Parnaíba Thermoelectric Complex, are characterized by personal economic activities, social relations, religious systems and their own beliefs .However, they are often considered as "simple", "backward" and "irrational" by those interested in implementing so-called economic development projects , a fact that is often reflected in environmental impact studies.

Among the compensations in the ambit of environmental licensing, we highlight the "voluntary" resettlement of communities[5]. mThis would be the main action of social and environmental compensation (ANDRADE, 2017, p. 71). Here, lawyers, engineers, social workers and other professionals acted to acquire the consent of the population with the relocation, which they characterized as "voluntary" (COSTA, ANDRADE, 2013, p. 57).

In the case under analysis, at the suggestion of the Secretaria Estadual de Meio Ambiente (State Environmental Department) (SEMA), the company presented a "Voluntary Resettlement Program of the Demand Community", registering in 2012 sixty-one families according to certain criteria[6], affirming that the company undertakes a process considered to be "participatory and democratic" and guided by "transparency", since this term was followed and agreed by the Public Defender's Office of the State of Maranhão (TERMO, 2012, s. p.).

However, there are embarrassments in the implementation of resettlement. Due to delays, in 2013 the Public Defender of the State of Maranhão (DPE/MA) informed the company of the importance of discussing the inclusion of ten more families.For the institution, they would be entitled to inclusion and it would be necessary to "establish **a definitive framework that would make it impossible for new** inclusion **suits**", and the "**definitive freezing** of family registration" should be promoted (DPE/MA, 2013, s. p., author's notes). This is a delicate issue, plus, there were other families requests to include them besides the ones already included (DEMANDA, 2013, s. p.).

5 There are other criticisms of the programs drawn up by the company as environmental compensation measures such as the "Programa de Ações para Atividade Agroextrativista" (Action Program for Agro Activity), which reflect the devaluation of the office of babaçu coconut breakers, required for the group's reproduction (COSTA, 2015, p. 124).

6 With regard to its clauses, the following stand out: 1) provision is made for an "instrument of good faith and of its own free will"; 2) the beneficiaries declare themselves as "heads of families" and "sole owners of an area of land and/or landlords"; 3) impossibility of inclusion of new dwelling, improvement or transfer of area; 4) granting lots to beneficiaries considered as "occupants" and not residing in the community; 5) forecast to conclude the term in three years (TERMO, 2012, s. p).

On the other hand, noncompliance with promises by the company, gas odor and noise resulted in more resistance by the community[7], questions regarding the guarantee of the implementation of the resettlement and complaints about the lack of access to information and the impossibility of carrying out reforms in the houses.This is the period when the activities of the complex begin to be transferred to the German group ENEVA (ENEVA, 2013a, s. p.).

The ENEVA company did not recognize the inclusion of all ten families, including only five, since it did not fulfill the "requisites required for the granting of individual housing", and defended "definitive freezing of the socioeconomic register" (ENEVA, 2013b, s. p.). While the community questioned the role of the Ombudsman, which would be "unrestrictedly favorable to Eneva's intention" (ATA, 2014, s. p.), in 2014, the 38ª Promotoria de Justiça da Capital Especializada em Conflitos Agrários do Ministério Público do Estado do Maranhão (MPE/MA)[8] begin to act. This was caused by the Sociedade Maranhense de Direitos Humanos (SMDH) in view of the dissatisfaction with the work of the Ombudsman, the embarrassments caused by the ENEVA company to work, unequal treatment in the resettlement program, lack of transparency and soci-environmental impacts (SMDH, 2014, s. p.). The socioenvironmental issues are highlighted with emphasis on the discussions between MPE/MA, DPE/MA, ENEVA, SMDH and the community, with continuous meetings.

In the first meeting, it was highlighted: the need for environmental technical analysis, by the MPE/MA; the delay in resettlement, noise pollution, atmospheric and water pollution, the impossibility of carrying out activities and the absence of signature of the freezing term by the community; the damage caused, by the SMDH; the participation of the community in resettlement, the existence of environmental licenses, the release of activities, and the linking of financial assistance to the participation on training activities, by ENEVA (MPE/MA, 2014a, s. p.).

At the second meeting, the community reaffirmed the noncompliance regarding the company's promises, the prevention of

7 Costa and Andrade (2013, p. 56) highlights among the forms of resistance to interception of paths, the "sequestration" of employees present in the company's container, cutting and destruction of signs, passage blocking for company drivers etc.

8 It should be noted that at the beginning of the prosecution's performance, the issues related to its competence were not very well defined, that is, only in the circumscription of the capital or in every state of Maranhão. In this case, by means of an ordinance, the said prosecution worked together with the local promoter of Santo Antônio dos Lopes (MPE/MA, 2014c, s. p).

activities, the environmental risks, the prohibition of “field burnings”, the cut down of the babaçu trees, concluding the MPE/MA the need for investigation by the Secretaria de Estado do Meio Ambiente (MPE / MA, 2014b, s. p.). Still unsatisfied, it informed the MPE/MA, the SMDH and the Ministério Público Federal no Maranhão (MPF/MA) about the “great environmental, social and moral impacts”, the destruction of babaçu trees and noise, atmospheric and water pollution, requiring the Conduct Adjustment Term (TAC) (DEMANDA, 2014, s. p.).

At the third meeting with the MPE/MA, these points were discussed with the company that affirms the fulfillment of its commitments (MPE/MA, 2014d, s. p.), clarification regarding resettlement, training courses, adhesion and freezing, to the feasibility of the execution of plantations by the community, requesting at the end the filing of the preparatory procedure (ENEVA, 2014a, s. p.).

However, after an *in loco* inspection by MPE/MA, it was verified that “the thermoelectric is installed practically in the middle of the Community” (MPE/MA, 2014e, s. p.), resulting in the company’s notification regarding the impacts caused to the community and the intention to propose a TAC (MPE/MA, 2014f, s. p.). In response, ENEVA defends itself by affirming that there is no damage to the community, the legality of environmental licensing by the existence of two environmental impact studies and the holding of five public hearings, the TAC, then, being unnecessary (ENEVA, 2014b, s. p.). On the other hand, in the last meeting promoted by the Ministério Público do Estado in 2014, the community reaffirmed the claims previously presented (MPF/MA, 2014g, s. p.).

In spite of attempts to resolve the conflict out of court, there was contact between MPE/MA and MPF/MA (MPF/MA, 2014h, s. p.), with a subsequent public civil action filing, referring to Case No. 15129-12.2015, which ran in the 8th Vara da Justiça Federal do Maranhão (JF/MA) until the jurisdiction of Santo Antônio dos Lopes District, under number 531-11.2016.8.10.0119. From here, we will analyze the actions of specialized and non-specialized agents, according to the theoretical assumptions previously studied.

3 OF THE ANALYSIS OF THE ACTIVITY OF AGENTS: ON PRACTICAL INTERACTIONS BETWEEN LEGAL FIELD AND DEVELOPMENT DISCOURSE

The judicialization of the case exemplifies the entry of the traditional populations affected in the legal field.With this, it is possible to highlight a specific set of practices, legal *corpus* , *habitus* and relations with external pressures, as well as the singularity of the performance of specialized agents and the aspects that lead to the delegitimation of non-specialized agents. It is precisely the functioning of the field and the performance of agents that makes it possible to observe violence and resistance, as well as the distance of new conceptions regarding development, as presented in the concept of "right to development."

After completing Inquérito Civil Público (Public Civil Inquiry) No. 1.19.000.000400/2011-59, the MPF/MA filed a civil public action jointly with the MPE/MA, later assisted by the SMDH (2015a, s. p.), and in the face of ENEVA, of the State of Maranhão and the Agência Nacional de Energia Elétrica (National Electric Energy Agency) (ANEEL)[9]. It reiterates in the initial the socioenvironmental conflict highlighted in the previous topic, that affects several communities, being Demanda and Morada Nova the most affected .In summary, it highlights: misconceptions in environmental licensing; impairment of the way of life and relationship with the physical environment; atmospheric and water pollution; food insecurity; deterioration of family income; suppression of babaçu palms, essential for agroextractivist activity of babaçu coconut breakers; spatial and locomotion modification; insufficiency of compensation and projects "disconnected from social realities" (MPF/MA, 2015a).

The rights of traditional populations, often considered new rights, do not necessarily result in a rupture with power relations in the countryside. This is observed by Bourdieu (1989, p. 234-235) when he identifies the recognition of rights to the production of clients and of specific capital, each "progress" being in the "judicialization" accompanied by the emergence of a new market and an increase in legal formalism or with the problems presented by Shiraishi Neto (2011, p. 45), concerning the regulation of traditional knowledge by legal categories.

9 At the outset, the environmental agency was limited to "the uncritical repetition of the reports presented by the entrepreneur", and there was no question of the deadline for relocation, and that ANEEL would have a legal interest in maintaining a contract with ENEVA (MPF/MA, 2015a, s. p). SEMA itself recognizes the existence of noise pollution (SEMA, 2014, s. p.) and the lack of resettlement, groundwater monitoring, noise control, migration control and air pollution (SEMA, 2015, s. p.) in the years of 2014 and 2015. The agency, in the process, stated its illegitimacy in figuring in the lawsuit, affirming in summary that the agency has no responsibility for the environmental licensing of the enterprise (ANEEL, 2015, s. p.), its passive illegitimacy was subsequently recognized (JF/MA, 2015d, s. p.).

However, it is possible to perceive openings in the legal field through the performance of MPF/MA. For example, he requested the preparation of an anthropological report, an important document for the present analysis.It refers to the report entitled "Impactos sociais e ambientais provocados pelo Complexo Parnaíba às populações tradicionais de Santo Antônio dos Lopes e Capinzal do Norte – Maranhão" (ANDRADE, 2014; ANDRADE, 2017), requested by the Ministério Público Federal (Federal Public Ministry).

The document makes it possible to identify the vision of the traditional populations and the contrast with the juridical representations existing in the juridical field and that, as highlighted before, has relations with the discourse of development. It is a "translation" (GEERTZ, 2013, p. 16), showing the logic of the expressions of those populations, later "retranslated" (BOURDIEU, 1989, p. 29) into the legal field.

Andrade (2017, p. 72) characterizes as "symbolic violence" attempts at compensation by the entrepreneur or pecuniary damages, unable to achieve, for example, "meaning and attachment to trees". This meaning and attachment has relevance to the members of the community as a result of their way of life, of production and of relating to the physical environment, whose legal relevance is lost or disregarded to the extent that there is no recognition by the agents in dispute by the monopoly of saying what is right.

In other words, the "symbolic losses" and "moral upheavals" that disorganized the social life of the group affected by the Complex (COSTA, 2015, p. 84) are difficult to understand legally, since it applies and works with the same reasons and the same kind of recognition applied to other practices and legal subjects, leveled by abstraction and the uniformity of state law. In dealing with traditional populations, it is from the recognition of other legal practices, according to the experience of each group, that it is possible to review crystallized notions in juridical thinking (SHIRAISHI NETO, 2007, p. 32).

The anthropological view, present in the previously cited piece, teaches "to see us, among others, as just another example of the form that human life has adopted in a certain place, a case between cases, a world between worlds" (GEERTZ, 2013, p. 22). This is in line with the proposition that law must be recovered and upgraded within a plural society - always in profound transformation (SHIRAISHI NETO, 2007, p. 32-33).

Here is a proposal for a rupture both with the representations of

the world arising from the discourse of development and with the legal representations prevailing in the legal field. From the anthropological report one has access to the social reality of the traditional populations affected by the enterprise, often disregarded in their programs.

If, on the one hand, an anthropological report reveals a translation of the practices, behaviors and senses of the traditional populations, on the other hand a re-translation is identified when the action is filed. In line with Bourdieu (1989, p. 229-230), it is a requirement of the legal field, in which the situation is recognized according to expressions, discussions and requirements for legal construction of the object, that is, there is a "re-translation" of the "Case" to build the situation in the forms of legal problem, subject to regulated debate. With that in mind, the factual situations are understood according to norms of the constitutional, environmental, administrative and procedural law.

This re-translation is associated with the exclusion of norms competing in the social space of divergence of "authorized interpreters", making it possible to characterize their activities as "regulated interpretation of texts unanimously recognized" (BOURDIEU, 1989, p. 213-214) and according to the general function of the state to produce and canonize social classifications (BOURDIEU, 2014, p. 37-38).

However, the establishment of subjects, rights, acts, facts, procedures and techniques in the legal field often fails to capture the vision of social reality by historically excluded social groups, as traditional populations, as previously mentioned. In this sense, Shiraishi Neto (2007, p. 29) shows that it is difficult to "frame" traditional peoples and communities in pre-existing schemes.

Entry into the legal field requires legal grounds, alienating different representations of these. This is observed with emphasis on the work of the legal advisors of ENEVA, after being joined by the MPF/MA of a new listing of families[10]. This list was based on a technical note prepared by the same anthropologist who produced the anthropological report, with a grant from the Sociedade Maranhense de Direitos Humanos, based on "criteria of belonging to the group, defined by the families themselves" (MPF/MA, 2015b, s. p.; SMDH, 2015b, s. p.; ANDRADE, 2015, s. p.).

With this, there was questioning in court of the anthropological technical note, which requested the inclusion of thirty more families. It

10 This new listing was presented after the first two hearings, defining the presentation by the authors of the list of impacted families, with subsequent company manifestation (JF/MA, 2015a, s. p., 2015b, s. p.).

states that it "has several allegations lacking a factual, technical and legal basis which, therefore, need to be corrected". In addition, it qualifies as absurd the criterion of "linkages" for the inclusion of families and that the note "lacks any legal basis", the new listing being "objective and rigorous criteria", "arbitrary, inconsistent, incoherent" (ENEVA, 2015b, s. p.).

In the same way that the "criteria of belonging to the group" do not have legal basis for the company, representations of the reality that refer to the "attachment to the trees" and the ways of being, to live and to create of the traditional populations also would not be recognized. This is one of the aspects of the functioning of the legal field, with delimitation of the specialized agents and consequently of the representations apt for legal recognition.

In addition, it is in the work of the legal advisors of ENEVA that one could identify a greater affinity with the discourse of development. After communication about the completion of the resettlement houses in March 2016 (ENEVA, 2015a, s. p.) and of the company's agreement (JF/MA, 2015c, s. p.), there was reiteration of the legality of the enterprise and of the company's programs[11] (ENEVA, 2015c, s. p.), which bring aspects of discourse: representations of reality, not understanding the singularities of the traditional population; modernizing fundamentals. From this, it can be seen that the functioning of the legal field, the recognition of a single legal system and the disqualification of non-specialized agents, strongly based on a traditional legal view, are aligned with the maintenance of the discourse of development[12].

In the Federal Court, there was no decision on merit, deciding on the illegitimacy of ANEEL and MPF/MA and, therefore, determining the referral of the case to the Santo Antônio dos Lopes County (JF/MA, 2015d, s. p.).This decision was aggravated by MPF/MA (MPF/MA, 2015d, sp), but was maintained by *the* aforementioned court (JF/MA, 2016a, s. p.), with subsequent referral to the Santo Antônio dos Lopes County (JF/MA,

11 It is important to point out that at this stage of the process, the SMDH informed the MPF/MA of the need to prevent harassment of families by the company (MPF/MA, 2015c, s. p.).; SMDH, 2015c, s. p.).

12 Even in the case of defense of large enterprises, there is a link between the juridical field and the discourse of development with its naturalization in the normative sphere, such as: the constitutional relation between national development and economic sovereignty, aiming to overcome the underdevelopment of country (BERCOVICI, 2009, p. 272-273); in the integration between economic growth, raising the standard of living and developing people and society (FOLLONI, 2014, p. 79-80); in the existence of guarantees and legal principles to achieve development (BEFATTI, 2014, p. 123).However, it does not reflect the social and cultural diversities that characterize , for example, babaçu coconut breakers, not incorporated by the economic conception of development.

2016b, s. p.).While ENEVA requested the dismissal of the case without a judgment of merit (ENEVA, 2016, s. p.), the Santo Antônio dos Lopes District Attorney's Office requested a hearing to discuss the inclusion of families in the resettlement (MPE/MA, 2016, s. p.) when it was carried out, there was no agreement (COMARCA, 2016, s. p.), and there was none until the writing of the decision by the court.

Although not closed, the case of peasant communities and babaçu coconut breakers in conflict with the ENEVA company exemplifies both the attempts to maintain the monopoly of practices by specialized agents and the insufficiency of this practice, demonstrating other worldviews regarding the social reality. In this sense, the maintenance of a traditional vision makes it impossible to understand the social reality of traditional communities, disqualifying it and withdrawing it from a legal nature, different from attempts to open up, taking into account their ways of being, living and creating.

FINAL CONSIDERATIONS

The situations of conflicts involving traditional populations and economic enterprises in Brazil are marked by various nuances, which can be analyzed in different ways. In order to analyze the relationship between legal field and development discourse in the case of the Parnaíba Thermoelectric Complex, it was possible to identify possibilities in the maintenance and protection of the forms of being, living and creating of the affected ethnic group, since breaking with the traditional legal view .

As presented, respect for the rights of traditional peoples and communities makes it possible to break with consecrated conceptions of development, such as that focused on economic development. For example, it is aligned with the promotion of the "right to development", insofar as it promotes the defense of ethnic, cultural, economic and social aspects of traditional populations, different from what is perceived in the primacy of the "right of development".

While it is aligned with state action and economic intervention, the "right of development" in disagreement with the "right to development" can have repercussions on strengthening development discourse.Different is not observed in relation to the proposed case study, whose legal field legitimizes state legal norms that lead to disregard the rights of traditional peoples and communities.

The enterprise is inserted in a context influenced by the diffusion of the discourse of development, constructing realities and consolidating the search for modernity, that reverberates in the elaboration of policies, projects, economic programs and legal norms. There are here relations with the legal practices and with the legal *corpus* , regulators of the interpretation of the specialized agents.

In this way, the relations between legal field and development discourse were emphasized, identifying interrelations that sharpen the subordination of traditional populations according to dominant and legitimized visions of social reality.On the other hand, it was possible to puncture ruptures, identifying other legal, social and economic forms, making possible the contact with the worldviews of the traditional populations.

Thus, in the case of the installation of the Parnaíba Thermoelectric Complex, it was possible to identify opposing agents and antagonistic interests in the legal field, as well as correlations with the development discourse. This results in legal forms incapable of recognizing the world views of the affected social groups, resulting in the impossibility of the legal field to protect their rights.

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