

STARVING TO DEATH LITTLE BY LITTLE EVERY DAY

IMPACTS ON HUMAN RIGHTS CAUSED BY THE USINA
TRAPICHE COMPANY TO A FISHING COMMUNITY IN THE
MUNICIPALITY OF SIRINHAÉM/STATE OF PERNAMBUCO,
BRAZIL



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Pastoral Land Commission
Northeast Regional Office II

RECIFE, 2016

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STARVING TO DEATH LITTLE BY LITTLE EVERY DAY:

Impacts on human rights caused by the Usina Trapiche company to a fishing community in the municipality of Sirinhaém/state of Pernambuco, Brazil

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SUPPORTED BY:

OXFAM America and OXFAM Brasil. This report was financially supported by Oxfam, but does not necessarily represents Oxfam's views.

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COVER/BACK COVER PHOTO:

CPT - Nordeste 2

PHOTOS:

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ISBN: 978-85-62093-09-8

Pastoral Land Commission
Northeast Office II - www.cptne2.org.br

RECIFE - 2016

FOREWORD

STARVING TO DEATH LITTLE BY LITTLE EVERY DAY

This publication provides a living picture of the tragic story of families expelled from the Sirinhaém islands, in the state of Pernambuco, Brazil, a territory where they were born and in which they built their lives for several generations. They ended up being expelled from that area by the greed and power of the owners of large-scale sugarcane farms, materialized in the Trapiche sugar mill set up in the municipality of Sirinhaém, in the southern Zona da Mata region in Pernambuco state. Established in the late nineteenth century, that mill occupies about 72% of the area of the municipality. It was acquired by the Serra Grande group from the state of Alagoas in 1997 and since then it has been controlled by entrepreneur Luiz Antônio de Andrade Bezerra.

Since that year, pressure mounted for the families to leave the islands under different, inconsistent arguments, always with the support of the judiciary and other government agencies. This is a process that has systematically violated the most basic human rights, as the following pages will show.

The sweetness of sugar has always been very bitter for workers since it began to be produced in Brazil, back in the sixteenth century. This bitterness was particularly felt by the hundreds of thousands of blacks sold in Africa and brought here to live under the most degrading and violent conditions in sugarcane farms and sugar mills.

This bitterness is still experienced in the twenty-first century by communities impacted by the merciless expansion of sugarcane monoculture not only to produce sugar as in the past,

but also ethanol to supply the increasing fleet of vehicles in Brazil and in the world.

The families that used to live on the Sirinhaém islands provide clear proof of this bitter taste. They used to live with dignity there, as according to many accounts, “*a good place to live in is one where you can keep your belly full,*” but they ended up being pushed to the outskirts of the city, without knowing where to look for their daily bread.

Sixty years after the poet João Cabral de Melo Neto described in verse the hardships experienced by the migrant Severino, “the community that was expelled from the Sirinhaém islands is the living and almost intact picture of what Severino experienced.” Away from the territory where they were born, deprived of their rights and dignity, they are facing the fate of starving to death little by little every day*.

This precious research work, which was carried out by the Pastoral Land Commission (CPT) in Brazil’s northeast region, more precisely in the state of Pernambuco, is a strong and overwhelming report of abuse of power by owners of large sugarcane farms and by agribusiness in general, which subordinate not only land and territories to their interests, but also the branches of government.

Goiânia, August 8, 2016

Bishop Enemésio Lazzaris

Bishop of Viana, state of Maranhão

President of the Pastoral Land Commission - CPT

* Life and death Severina – p. 2

LIST OF ACRONYMS

ACP Public Civil Action	IPL Police Investigation
AGU Federal Attorney's Office	LEPEC/UFPE Laboratory for Studies and Research on Agrarian Space and Peasantry
AI Notice of Infraction	MPF Federal Prosecutor's Office
AMANE Association for Protection of the Northeast Atlantic Forest	MPPE Prosecutor's Office of the State of Pernambuco
APA Environmental Protection Area	PMPE Military Police of the State of Pernambuco
APP Permanent Preservation Area	MMA Ministry of Environment
BNDES Brazilian National Economic and Social Development Bank	PAC Growth Acceleration Program
BO Police Report	PEPDDH-PE Program for the Protection of Human Rights Defenders of the State of Pernambuco
CAOP Center for Operational Support to Prosecutors' Offices	UNDP United Nations Development Program
CEPAN Northeast Center for Environmental Research	RDS Sustainable Development Reserve
CF/88 Federal Constitution of 1988	PRNP Private Natural Heritage Reserve
CIPOMA Independent Environmental Policing Group	RESEX Extractive Reserve
CIPS Suape Industrial Port Complex	RIP Property Asset Register
CONAB National Supply Company	SECTMA Science, Technology and Environment Department
CONAMA National Environmental Council	SEMAS-PE Environment and Sustainability Department of the State of Pernambuco
CONSEMA/PE Pernambuco State Council for the Environment	SINDAÇÚCAR Sugar and Ethanol Industry Union in the State of Pernambuco
COMPESA Sanitation Company of Pernambuco State	SISAN National Food and Nutrition Security System
CP Penal Code	SNUC National System of Nature Conservation Units
CPP Fishermen's Pastoral Council	SPU Federal Assets Department
CPRH State Agency for the Environment	SPU-PE Federal Assets Superintendence in the State of Pernambuco
CPT Pastoral Land Commission	STF Supreme Federal Court
CSER Corporate Social and Environmental Responsibility	TAC Conduct Adjustment Term
DOU Federal Official Gazette	TdD NGO Terra de Direitos
EIA Environmental Impact Study	TJPE Court of Appeals of the State of Pernambuco
US United States of America	TRF5 Federal Regional Court of the 5th Region
FETAPE Federation of Agricultural Workers of the State of Pernambuco	UC Conservation Unit
IBAMA Brazilian Institute for the Environment and Renewable Natural Resources	
ICMBio Chico Mendes Institute for Biodiversity Conservation	
ICP Public Civil Investigation	
HDI Human Development Index	
INCRA National Institute for Colonization and Agrarian Reform	

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1

INTRODUCTION

“Sugarcane is the mouth [...] with which they devour the land where a man used to grow his crops; and the few meters in which he built his home; and then the small space that a sitting man needs.”.

This excerpt from the poem *O rio* (the river), written in 1953 by the poet from Pernambuco state João Cabral de Melo Neto, portrayed a well-known situation in the Zona da Mata region: the endless ambition of sugarcane monoculture. That poetic observation, however, applies not only to the past, but also to the present – to people of the present. Both in past times and today, countless men and women in the Zona da Mata region in Pernambuco are being devoured, on a daily basis, by the same bloody sugarcane fields described in João Cabral’s poems in the 1950s. We will now dare to tell one of many other incommensurable stories of a people exterminated by the monoculture of sugarcane.

The estuary of a river called Sirinhaém is located in the southern part of the coast of Pernambuco state. Its name comes from the Tupi indigenous language and means bowl or plate of crabs. Made up of 32 islands surrounded by mangroves, the estuary of the Sirinhaém river is rich with this and many other crustaceans that were consumed as food by those who settled in its surroundings. “Several communities in Brazil’s northeast region have sprung up around the mangrove and the estuary due to their diversity and richness of species, to their waters, to their food supply,” explains Luiz Otávio Araújo, from the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA).

Because of the tidal influence it is exposed to, it is legally considered a public waterfront property; therefore, all the land in the estuary belongs to the federal administration. Today, approximately 5,000 artisanal fisherfolk are directly dependent on this marine environment for their livelihoods and to support their families, and it is therefore regarded as one of the most important estuaries in the coastal region of Pernambuco state.

It was in this estuary that a traditional community made up of 57 families of coastal and marine artisanal fisherfolk and gatherers settled (approximately 360 people). Those families

lived in constant harmony on 17 of the 32 estuarine islands, which shaped the territory traditionally occupied by them until the late 1980s, when they began to face a long and violent territorial conflict that led to the disintegration of their community. All the families were expelled from the territory and displaced to districts in the outskirts of the municipality of Sirinhaém between 1998 and 2010.

The conflict was with the company Usina Trapiche S/A, owner of one of the largest sugarcane mills in the state of Pernambuco and a major sugar exporter in Brazil's northeast region. Despite never having been the owner of the area, the company was granted the right to use and enjoy it under a long-term tenure contract¹, based on which it is regarded as the “undisputed owner” of the area, even though it is actually owned by the federal administration. The territorial conflict between Usina Trapiche and the traditional community of the so-called “Sirinhaém islands” showed that it is impossible for the two models to coexist: the territory of life of coastal and marine fisherfolk and gatherers and the territory of devastation resulting from the monoculture of sugarcane practiced by the company.

Even though all the families from the traditional territory have been already expelled from the Sirinhaém islands, the conflict and the impacts caused by the company's presence in the region persist to the present day.

As an emblematic conflict area marked by a history of rights violations that need to be analyzed in its entirety, the Pastoral Land Commission (CPT) decided to conduct an impact assessment study on it. It is a territorial conflict involving an economic activity whose harmful nature causes social and environ-

mental impacts that destroy the livelihoods of rural communities in the area.

Therefore, this study is above of all an attempt to echo the voice of the community of the Sirinhaém islands in its fierce struggle for its territory. It is thus intended to be used as a tool to disseminate the reports of abuses of the community more widely, to analyze measures taken by public agencies to address the conflict, and to promote the resistance of that traditional community. It is also intended to contribute to a definitive solution or reparation for the rights violations it suffered and to serve as an example and inspiration to other people affected by the sugar and ethanol industry in Pernambuco and in Brazil at large.

(...) Sirinhaém. Made up of 32 islands surrounded by mangroves, the estuary of the Sirinhaém river is rich with this and many other crustaceans that were consumed as food by those who settled in its surroundings.

The methodology of this study is that of analyzing events and human rights violations caused by the company Usina Trapiche S/A that were reported by members of the traditional community that used to live on the Sirinhaém islands, and by other fisherfolk who fish in their estuary. The information contained here was collected through an extensive survey conducted by CPT between April 2015 and

August 2016.

It should be stressed initially that CPT has been working to support families affected by the Trapiche sugar mill since 2003. As a result, it has extensive knowledge of the case, which has been acquired by the pastoral staff and its legal department, and it also has a large body of evidence of such rights violations.

The study was based on the principles that inspire and guide the work carried out by CPT: “being a solidarity-based, prophetic, ecumenical, fraternal and sympathetic organization that provides a change-oriented educational service to peoples of land and water with the

¹ Also referred to as emphyteusis or long-term lease, a long-term tenure contract is a legal transaction whereby an owner of immovable property transfers to another party the right to use or enjoy it upon an annual payment. The tenure we are talking about here is an administrative (or special) tenure applied to public immovable property belonging to the federal administration, such as public waterfront lands and additions thereto. Tenure of real property belonging to the federal administration is governed by Law by Decree No. 9,760 of 1946 and by Law No. 9,636 of 1998 and it is granted through a contract entered into between the Federal Heritage Department (SPU) and a private party, with due regard for the right of preference of its occupants (article 15, Law No. 9,636 of 1998).



FISHERMAN CROSSING THE RIVER. SIRINHAÉM/2015. PHOTO: CPT NE 2

aim of stimulating them to play a leading role in promoting necessary changes.” To this principle we added the methodological procedure of assessing human rights impacts as recommended by OXFAM to guide analyses of human rights violations by the private sector through community-based human rights impact assessments (COBHRA). The methodological tool chosen is called “Getting it Right” and was developed by the Canadian organization “Rights and Development”.

The first methodological stage of the survey was that of setting up a team to conduct the study and the assessment, composed of pastoral agents of CPT, legal advisors, and community leaders. The participation of these leaders was made possible by the Association of Fisherfolk and Boat Owners of Sirinhaém, by the Franciscan Province of St. Anthony of Brazil/Sirinhaém, and by the Association of Residents of the Outeiro do Livramento district, one of the neighborhoods in which many former residents of the islands are living today.

We identified in advance that the investigated case has an impact on two different groups: 1) on a group of coastal and marine artisanal fisherfolk and gatherers who used to live on the Sirinhaém islands and were expelled and evicted from that territory by force;

2) a group of fisherfolk of the region who do not reside in the traditional territory of the estuary but need to use the river’s estuary to carry out their traditional fishing activities. Sixty interviews were held altogether, 19 of which with former residents of the Sirinhaém islands and 41 with artisanal fisherfolk who did not reside in the territory.

To protect and safeguard the identity of the respondents, we chose to use fictitious names, except for those who had publicly positioned themselves in campaigns and in relation to previous international reports of rights violations. We also point out that the names mentioned in documents such as legal reports and newspaper articles were maintained so as not to change their original content.

We held individual interviews, family interviews or small round table interviews with members of families who lived in the estuary of the Sirinhaém river, as well as interviews with fisherfolk affected by the Trapiche sugar mill. With regard to the gender approach, which is very present in the conflict, we conducted specific interviews and round table interviews using appropriate methodologies that made it possible for us to identify rights violations specifically related to women.

Interviews were also held with represen-

tatives of all government agencies that were somehow involved in the conflict², as well as interviews with representatives of civil society organizations that have been keeping track of it. It is worth mentioning, at this point, how difficult it was to collect information from government agencies, mainly due to the lack of computerized records at the time when the facts took place, to changes in the system that was used back then, and also to the poor management of the physical files of the documents. These factors made it difficult, or even impossible in some cases, for us to access the information we wanted to collect³.

We developed a partnership with the Laboratory for Studies and Research on Agrarian Space and Peasantry of the Federal University of Pernambuco (LEPEC/UFPE) for brokering purposes and for holding interviews with representatives of the Trapiche company. However, the company showed no interest in being interviewed. We therefore relied on formal and official sources, such as legal documents and newspaper reports, to define the position of the mill in relation to the reports of rights abuses by the coastal and marine artisanal fisherfolk and gatherers.

Extensive research and a study based on collections of documents on the Sirinhaém case were also carried out. The study team carefully analyzed scientific research papers, old and recent news stories, legal and administrative proceedings, documents prepared by government agencies, reports and dossiers of civil society organizations, communities, documents, personal records and collections of those involved in the conflict, among other documents.

We documented and analyzed the main rights violations reported the by fisherfolk, namely: violations identified in the process of expelling them from their traditional territory,

violations of the right to food, and violations of the right to water. This study analyzes the facts in the light of Brazilian law and treaties, pacts, agreements and conventions to which Brazil is a signatory.

Finally, this report is structured into five chapters:

Human Rights: Provides an overview of human rights in Brazil and analyzes the low effectiveness of the legal framework available to traditional peoples in the country. The chapter also discusses the relationship between human rights and business.

The Conflict: Provides a description of the social context and scenario in which Usina Trapiche operates and addresses the issue of sugarcane monoculture in Pernambuco state and in Brazil at large; it presents those involved in the conflict and also provides a brief summary of the case under analysis.

Findings of Rights Violations: Contains a detailed analysis of rights violations recorded during the conflict and is divided into three parts: analysis of violations recorded during the process of displacement of the islanders from their territory; analysis of violations of the right to an ecologically balanced environment; and analysis of violations of the right to food.

The Struggle to Create an Extractive Reserve (Resex): This chapter discusses the efforts made to seek redress for violations of the rights of the Traditional Community through the creation of a Conservation Unit of the Extractive Reserve type, which is a request that remains unmet.

Considerations and Recommendations: This chapter makes final considerations on the survey and concludes by making a set of recommendations to the different entities involved in the case, so that all violations of rights may be redressed.

² A list of those agencies can be found in an annex hereto.

³ For example, many documents were not found in the police station of Sirinhaém due to problems in its physical facilities. There were no digital copies of those documents and the police station lacked a computerized system. Public civil investigations carried out by the State Prosecutor's Office in the region of Sirinhaém and records of some legal proceedings related to the conflict in that region were not found in the system being used today or the current system didn't have any information about them. After requesting to the Federal Heritage Department (SPU) a copy of the documents related to the tenure contract granted to the sugar mill, we were told that they only had the latest ones and did not know where the others were being kept, as they were not available in the system. In a visit to the Federal Prosecutor's Office to request documents related to the public civil investigation on the case, we were told that they were being kept at its headquarters in Brasilia, but when we got in touch with the office in Brasilia we were told that the documents had been returned to the State Prosecutor's Office almost two years before.

2

HUMAN RIGHTS

HUMAN RIGHTS AND TRADITIONAL COMMUNITIES IN BRAZIL

An agenda on Human Rights and on creating a global-regional system for promoting, protecting, and disseminating these rights began to be discussed in Brazil and Latin America in the 1966-1992 period. It was a period in which Latin American countries faced military coups and subsequent transitions to democracy and to the “constitutionalization” of rights.

For this reason, the political repercussions of human rights in those countries represent a significant milestone in the struggle for (re) positioning the State in a democratic, representative, and participatory dimension. They stimulated the consolidation of social movements, the actions of activists, and other forms of mobilization for rights in response to urgent, complex, and structuring political and legal demands.

In Brazil, the legal framework governing these rights is the Constitution of the Federative Republic of Brazil of 1988 (CRFB 1988), which provides for values and highlights the principle of human dignity as a fundamental element to be evoked as a beacon for interpreting and applying other legal provisions.

The universalizing purpose of Human Rights led to the creation of the so-called universal subject of rights. However, in relation to traditional communities, which are composed of ethnic minorities, the abstraction of their unique traits had a reverse effect. These people saw the homogenizing efforts of the original discourse of Human Rights as a means to deny their identity, resulting in the invisibility of their struggle and existence.

For this reason, the challenge has been that of recognizing that the history of enshrining these rights in legal instruments, especially in Latin America, needs to be analyzed from a (re) contextualized perspective. The universalist and abstract legacy of human rights must certainly be appropriated in Latin American countries by collective subjects of rights based on their own interests, challenges and narratives,

i.e. beyond a perception riddled with “ahistoricity” (SHIRAISHI NETO, 2007, p. 34), which relegates regional pluralities to a less important position.

Accordingly, in addition to the list of fundamental rights provided for in the Brazilian Constitution of 1988, especially in its article 5, and in Human Rights Pacts, Conventions and Treaties received by the Constitution, the constitutional text included regulatory provisions that recognize and are intended to safeguard the diversity of the formation of Brazilian society, especially the rights of indigenous peoples, Afro-Brazilians, and traditional communities. Articles 215 and 216 of the Constitution are examples of this, as they ensure the protection and promotion, by the State and society, of grassroots cultural expressions and those of indigenous and Afro-Brazilian people.

Thus, human rights constitute a universalizing, but cross-cutting, political and legal agenda with the characteristics of the Brazilian nation. In addition, other normative inputs and national and international documents have been incorporated into the legal system and represent Human Rights legal frameworks for protecting traditional peoples and communities. Among them, the following few ones deserve special mention:

- ◆ The Convention on Biological Diversity (incorporated through Decree No. 2,519 of 1998), designed to preserve biological diversity and sustainable use of natural resources. This Convention constitutes a major milestone in the struggle of traditional communities, as it represents an innovation not only for admitting not only the possibility, but also the need for sustainable coexistence between humans and nature. In other words, the document recognizes the actual symbiotic relationship between traditional peoples and a healthy environment, through which the former produces and reproduces the latter;

- ◆ Law No. 9,985 of 2000, which established the National System of Nature Conservation Units (SNUC). The document recognizes that traditional communities play a key role in protecting nature and preserving biological diversity, for which reason it provides for the possibility of creating conservation units that also

protect the traditional territories of these communities, such as Extractive Reserves (Resex) and Sustainable Development Reserves (RDS);

- ◆ Convention 169 on Indigenous and Tribal Peoples of 1989 of the International Labor Organization, ILO. It was enacted in Brazil through Decree No. 5,051 of 2004. The Convention innovates by establishing the principle self-recognition as a fundamental criterion for determining the traditional identity of a community;

- ◆ The National Policy for the Sustainable Development of Traditional Peoples and Communities (Decree No. 6,040 of 2007), which among other things sets out some guidelines defining the nature of traditional communities as follows:

[...] culturally diverse groups that recognize themselves as such, have their own forms of social organization, occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral, and economic reproduction, using knowledge, innovations and practices generated and handed down by tradition (article 3, item I).

It therefore formalizes the possibility of other groups, not only indigenous groups, being considered traditional groups as well;

- ◆ The Convention on the Protection and Promotion of the Diversity of Cultural Expressions (incorporated into Brazil’s legal framework by Decree No. 6,177 of 2007), which recognizes the importance of traditional knowledge as a source of material and immaterial wealth and its positive contribution to sustainable development, apart from stressing the importance of intercultural dialogue for promoting peace, respect, and tolerance;

- ◆ The Statute on Racial Equality (Law No. 12,288 of 2010), designed to ensure equal opportunities and protect individual, collective, and diffuse ethnic rights and also to fight discrimination and other forms of ethnic intolerance. It is important to mention that a considerable percentage of Brazilian traditional peoples and communities suffer discrimination based on ethnic or racial origin;

♦ Decree No. 8,750 of 2016, which established the National Council for Traditional Peoples and Communities. According to article 1 (I) of that decree, one of the objectives of the Council is that of:

[...] promoting the sustainable development of traditional peoples and communities with the aim of recognizing, strengthening, and ensuring the rights of these peoples and communities, including their territorial, environmental, economic, and cultural rights and their customs, traditional and ancestral knowledge, ways of doing things, forms of organization, and institutions.

CONVENTION 169 ON INDIGENOUS AND TRIBAL PEOPLES OF THE INTERNATIONAL LABOR ORGANIZATION (ILO)

The ILO Convention 169 is one of the most important political and legal instruments providing for the protection of traditional peoples and communities. The document established the criterion of “awareness of one’s identity” (self-recognition) to ascertain the identity of a traditional community and ensure its access to various legal tools designed to promote their rights, especially their territorial rights.

The term “indigenous or tribal peoples” that the document refers to is to be interpreted not literally, but rather as one encompassing all peoples with traditional ways of life. Ways of life in which their culture, economy, political organizations, and relationship with nature and with other sectors of society and of the State are different than those of the majority of the population, especially as compared to those of urban populations and hegemonic rural clusters. This interpretation is particularly important in Brazil, considering that there are no “tribal peoples” in the country in the strict sense of the term, as in other States. The meaning of the term “tribal” here is to be interpreted broadly. It therefore allows for the possibility of including other non-indigenous social

groups in the category of traditional peoples (SHIRAISHI NETO, 2007).

In this regard, the Federal Constitution, in its article 68, recognizes the Quilombolas (descendants of runaway slaves who established communities in rural areas in Brazil centuries ago) as traditional peoples, thus ensuring them protection. Today, this ethnic minority can register their territory with a registrar through a special procedure provided for in Decree 4,887 of November 20, 2003. Although there is no specific regulation specifying the nature of other traditional social groups, Decree 8,750 recently issued in May 2016, which established the National Council for Traditional Peoples and Communities, defined the ethnic groups that could be represented in this Council in its article 4 (2) as follows:

Indigenous peoples, Quilombola communities, *terreiro* peoples and communities (made up of people who practice Afro-Brazilian religions)/peoples and communities with African roots, Gipsy peoples, artisanal fisherfolk, gatherers, coastal and marine gatherers, *Caiçaras* (traditional inhabitants of coastal areas in Brazil’s southeast and south regions), *Faxinalenses* (people of European descent who established common rural communities in the state of Paraná), *Benzedeiros* (folk healers), *Ilhéus* (traditional people living on islands), *Raizeiros* (healers with roots), *Geraizeiros* (traditional communities in the north region of Minas Gerais state), *Caatingueiros* (people living in the Caatinga region in Brazil’s northeast), *Veredeiros* (people living in the Veredas ecosystem in the north region of Minas Gerais state), pickers of evergreens flowers, *Pantaneiros* (people living in the Pantanal region), *Morroquianos* (people of the Morraia region in Mato Grosso state), Pomeranian people, mangaba pickers, babassu coconut breakers, *retireiros* do Araguaia (traditional community in the northeast region of Goiás state), *comunidades de fundos e fechos de pasto* (communities living in semi-arid areas of Bahia state), riverine populations, *Cipozeiros* (gatherers who make a living by making crafts out of vines), *Andirobeiros* (people who extract oil from Andiroba trees), mestizos and youth from traditional peoples and communities.

It can be seen that the category of traditional peoples and communities in Brazil encom-

passes not only indigenous people, but several other ethnic minorities.

The ILO Convention No. 169 provides that the State must protect these communities both with regard to their territories and to their organizations, cultures, economies, and the environment in which they live and interact.

That Convention and its subsequent enactment were a great achievement, especially of and for non-traditional indigenous people, who managed to take the first steps toward having their existence recognized, at least formally, by the State.

It cannot be denied that Brazil, in line with what its Latin American neighbors have done⁴, has been taking steps to legally ratify, at least formally, the multi-cultural and multi-ethnic character of its society by legally equating the “principle of plurality” to the “principle of human dignity” in situations involving traditional peoples (SHIRAISHI NETO, 2007).

THE COMPLEXITY AND LOW EFFECTIVENESS OF LEGAL FRAMEWORKS FOR TRADITIONAL PEOPLES IN BRAZIL

By receiving international treaties, conventions and international agreements on Human Rights relating to traditional peoples, the 1988 Constitution proposes a humanizing project for the Brazilian legal system. However, a diagnosis of the actual realization of these rights showed that there is still a long and difficult path to be trodden in this regard. It should be noted that land regularization in Brazil, with a focus on traditional communities and peoples, bothers

more conservative sectors⁵ that have the prestige and power to interfere in government decisions. For example, the Brazilian National Congress is mostly occupied by groups representing agribusiness that make up one of the most powerful parliamentary fronts in the National Congress, the Parliamentary Front for Agriculture and Livestock, better known as the “ruralist” bench. Jointly with other groups associated with property speculators, groups funded by multinational companies, private banks, and predatory tourism companies, in addition to the neopentecostal evangelical bench and congresspersons associated with the arms industry - those members of parliament act in an institutionally violent manner, supporting conservative measures against traditional communities.

TRADITIONAL NON-INDIGENOUS AND NON-QUILOMBOLA COMMUNITIES - When one analyzes more closely the reality experienced by non-indigenous and non-Quilombola peoples or by other traditional peoples and communities that cannot rely on specific laws to regularize their traditional territories, the scenario becomes even more dramatic. In many cases, mega undertakings and large public construction projects expel those communities from their territory fully disregarding the provisions of international documents and treaties.

Despite the existence of programmatic standards that ensure protection to these peoples, such as those provided for in ILO’s Convention 169, the absence of specific laws governing the rights of these non-indigenous and non-Quilombola peoples has kept them conveniently invisible, legitimizing serious and systematic violations of their human rights. Given this scenario, those peoples have organized themselves to develop certain strategies to fill this gap. The Movement of Artisanal Fishermen and Fisherwomen, for example, has organized

4 “South America, Colombia, Ecuador, Venezuela and Bolivia are in the process of regulating the right to prior consultation, especially as regards the exploitation of natural resources on indigenous lands. However, with the exception of Colombia, no country has fully regulated the right to consultation on administrative and legislative measures affecting the peoples concerned [...]”. Available at: <http://www.socioambiental.org/inst/esp/consulta_previa/?q=consulta-previa-e-medidas-administrativas/americado-sul>. Accessed on: April 22, 2016.

5 The motto of the website *Paz no Campo* (peace in rural areas) is “Join Paz no Campo and fight for your property: The enemies of private property have waged a permanent war against those living in rural areas.” Available at: <<http://www.paznocampo.org.br>>. Accessed on: June 16, 2012.

itself at national level to draw up a Popular Initiative Bill on fishing territories which is in the signature-gathering phase to be proposed to Congress⁶.

Another strategy often used by traditional peoples is that of requesting the creation of Nature Conservation Units to preserve their ways of life, such as Extractive Reserves (Resex).

A historical example of a major achievement in this regard was the creation of the Alto Juruá Extractive Reserve in the state of Acre in 1990, the first one ever created in Brazil, as a result of the struggle of rubber tappers, which paved the way for rubber tappers to establish other similar reserves in the Amazon region, such as the Arapixi Resex (Amazonas state), the Chico Mendes Resex (Acre state), the Ouro Preto Resex (state of Rondônia), the Rio Cajari Resex (Amazonas state), and others. Despite having ensured the creation of the Extremo Norte Resex (state of Tocantins), other traditional communities, such as one of babassu cocout breakers, have been fighting for almost fifteen years after the decree creating that reserve was issued to establish it in practice, and since then it has been devastated by large projects⁷.

A mobilization of artisanal fishermen and fisherwomen resulted in the creation of the following extractive reserves: Renascer Resex (state of Pará) (PEDRO, 2012), Canavieiras Resex (Bahia state) (CURADO, 2014), Delta do Parnaíba Resex (between the states of Piauí and Maranhão) Pirajubaé Resex (Santa Catarina state), Arraial do Cabo Marine Resex (state of Rio de Janeiro), Baía do Iguape Marine Resex (Bahia state), Ponta do Corumbau Marine Resex (Bahia state), and Lagoa do Jequiá Marine Resex (state of Alagoas). Between the states of Pernambuco and Paraíba, the Acaú-Goiana Resex was created on September 26,

2007 with 6,676.69 hectares, benefiting several fishing communities and women shellfish gatherers. However, the experience of its creation led to a more intense political interference against the creation of the Sirinhaém/Ipojuca Resex in Pernambuco state. Government agencies that were against the creation of protected areas and mill owners in the region feared that the precedent of creating protected areas in a territory occupied by mills would consolidate the territorial rights of fishing communities in that region.

HUMAN RIGHTS AND BUSINESS

Government agencies that were against the creation of protected areas and mill owners in the region feared that the precedent of creating protected areas in a territory occupied by mills would consolidate the territorial rights of fishing communities in that region.

Fundamental human rights were conceived as limitations imposed on the exercise of State power and they are usually associated with obligations exclusively imposed on States as guarantors and protectors of those rights. However, as a result of the increasing complexity of human societies over the past decades, fundamental rights began to be threatened not only by government, but also by private companies. There have been recurring reports worldwide of serious rights violations committed by companies in their quest for the highest profit possible. This has led the UN and other social organizations to take action to mitigate the harmful actions of economic agents against human rights.

In the field of legal theory, this concern has given rise to the concept of the horizontal effectiveness of fundamental rights, which means that respect for fundamental rights should also guide the relations between individuals. The principle of maximum effectiveness of funda-

6 Source: Movement of artisanal fishermen and fisherwomen. *Cartilha Projeto de Lei de Iniciativa Popular Sobre Território Pesqueiro*. Available at: <<http://www.cppnac.org.br/wp-content/uploads/2015/10/Cartilha-sobre-o-Projeto-de-Lei-da-Campanha-pelo-Territ%C3%B3rio-Pesqueiro.pdf>>. Accessed on: March 10, 2016

7 Source: Interstate Movement of Babassu Coconut Breakers. *Projeto Nova Cartografia Social da Amazônia*. Series: Movimentos sociais, identidade coletiva e conflitos. São Luís, 2005. p. 9.

mental rights, as provided for in article 5 (I) of the 1988 Constitution⁸, ensures that these rights are to be interpreted and applied in such a way as to make them the most effective possible in fulfilling their social function. For this purpose, the direct and immediate application of fundamental rights is binding for both government and the private sector.

In its decisions, the Supreme Federal Court (STF) has applied the theory of the horizontal effectiveness of fundamental rights, as can be seen in the following excerpt of a decision of the court on Extraordinary Appeal 201819/RJ⁹:

I. EFFECTIVENESS OF FUNDAMENTAL RIGHTS IN PRIVATE RELATIONSHIPS. Violations of fundamental rights occur not only in the context of the relationships between citizens and the State, but also in the relationships between individuals and legal persons of private law. Therefore, the fundamental rights ensured by the Constitution are directly binding not only for public authorities, as they are also intended to protect private individuals from violations by private corporations.

In 1977, the UN adopted the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, which basically states that companies are required to respect the Universal Declaration of Human Rights and other conventions on the subject (MATHIS; MATHIS, 2012). For the same purpose, the UN also drew up in 1983 a code of conduct for multinational companies that set out some social and environmental guidelines for global application. Since then, the nations have been working to promote the idea of Corporate Social Responsibility in business activities in their territories, applying it both to multinationals and domestic companies.

In 2011, the UN Human Rights Council approved the Guiding Principles on Business and Human Rights prepared by the UN Secretary-General's Special Representative John Ruggie, which sets parameters for the relationship be-

tween states and companies and between the latter and individuals and communities around them that are directly or indirectly affected by their activities. Today, this is the main document that is used as a benchmark to guide responsible business practices worldwide¹⁰.

The Principles are based on three normative pillars: protect, respect and remedy.

PROTECT – refers to the State's duty to protect citizens from human rights violations, including by third parties and corporations. This pillar emphasizes that the standard of conduct of governments should be that of preventing and remedying violations. It also means that legal frameworks should be established to protect human rights and relevant legal instruments should be used to prevent abuses, and also that they should play a more active role in respecting those rights in their own companies and act extrajudicially in relation to some notorious cases of abuses by private companies.

RESPECT – refers to the duty of companies to respect human rights. Corporate responsibility is seen by Ruggie as the duty of companies to act diligently to avoid human rights violations. This duty is not limited to compliance with domestic laws, as it includes the duty to take additional voluntary responsibilities.

As explained by Juana Kweitel, Director for Programs of the NGO Conectas Direitos Humanos:

It is not a generic statement of respect for the Universal Declaration of Human Rights of 1948, as some companies make today. It is much more than that. Companies must evaluate their operations and reflect deeply on possible risks. For this purpose, they must carefully review accusations of human rights violations against them and adopt internal rules to prevent them from happening again (KWEITEL, 2013).

In other words, companies must take action to identify, prevent, minimize, and remedy damages caused by their activities, also making good on their commitment to carry out prior

8 "The provisions defining fundamental rights and guarantees are immediately applicable" (1988 Constitution, article 5 [1]).

9 BRAZIL. Supreme Federal Court. RE n. 201.819-8. Rapporteur: Justice Ellen Gracie. Federal Court Register, Brasília, October 27, 2006.

10 NGO CONECTAS Direitos Humanos. *Empresas e direitos humanos: parâmetros da ONU para proteger, respeitar e reparar*. Final report of John Ruggie – Special Representative of the Secretary-General. São Paulo, 2013.

consultations with populations that may be affected by their operations and establishing the necessary mechanisms to materialize their commitments – such as those of establishing reporting mechanisms for groups or communities that may be affected by their activities, creating tools to monitor the effectiveness of their responses to impacts on groups or populations exposed to greater vulnerability risks, and preparing official reports when there are risks of serious violations due to the nature of the activity or the operational context.

REMEDY – refers to the need for appropriate and effective resources and mechanisms to ensure access to compensation to victims if companies violate their rights. The need for easy access to redress includes mechanisms of the State to ensure access to judicial and non-judicial systems and also to other mechanisms at the corporate level, through dialogue and mediation.

With regard to this pillar, the report *Acesso à Justiça: Violações de Direitos Humanos por Empresas no Brasil* (access to justice: human rights violations by companies in Brazil)¹¹, which was prepared in 2011 by the Brazilian NGO Conectas Direitos Humanos and the International Commission of Jurists, found that victims of human rights violations committed by companies still face many obstacles to access justice in Brazil. These difficulties range from general barriers to access justice - such as the cost of litigation, the sluggishness of the courts, and lack of awareness of rights - to the excessive economic power of companies and the relationship of economic dependence between them and the victims.

Although the debate on corporate responsibility is a hot issue today, its practical results have not been sufficient to change the unfair and oppressive structure of many companies. After an official visit to Brazil in December 2015, the UN Working Group on Business and Human Rights published a report¹² expressing

its concerns about government and corporate practices. The expert in human rights Pavel Sulyandziga, one of the members of the delegation that visited Brazil, found that “Brazil needs to strike a better balance between economic interests and the protection of human rights in its quest for economic growth.”

The companies that operate in the sugar and ethanol sector in the country provide an example of this need. The Green Protocol¹³ that was signed between financial institutions such as the Brazilian National Bank for Economic and Social Development (BNDES) (one of the banks that finance the Usina Trapiche company and all the sugar and ethanol industry in Brazil), Banco do Brasil, and the Ministry of Environment was not sufficient to change or minimize impacts on territories devastated by sugar mills. Signed in 1995 and revised in 2008, the goal of the Green Protocol is to define banking policies and practices in tune with the “social and environmental responsibility” and “sustainable development” discourse. One of the points in the protocol provides guidance on how social and environmental criteria are to be incorporated into the process of analyzing and granting credit for investment projects, considering the magnitude of their impacts and risks and the need for mitigating and compensating measures.

Another example of an initiative related to the sugar and ethanol industry is that of the relationship and business policies adopted by major buyers of sugar in the world, such as Coca-Cola and PepsiCo.

A Coca-Cola submete seus fornecedores, incCoca-Cola requires its suppliers, including the Usina Trapiche company, to comply with a set of rules as part of its relationship policy. In an interview with the representatives of Coca-Cola Luiz André Soares and Jennifer Ragland, it was reported that, in the case of suppliers of agricultural inputs, the company adopts the Sustainable Agriculture Guiding Principles

11 NGO CONECTAS DIRETOS HUMANOS. *Conectas e ICJ publicam relatório sobre empresas brasileiras e direitos humanos*. Available at: <<http://www.conectas.org/pt/acoefs/empresas-e-direitos-humanos/noticia/conectas-e-icj-publicam-relatorio-sobre-empresas-brasileiras-e-direitos-humanos>> Accessed on: July 14, 2016.

12 News: Grupo de Trabalho da ONU sobre Empresas e Direitos Humanos divulga relatório sobre o Brasil. United Nations Portal in Brazil, 2016. Available at: <<https://nacoesunidas.org/grupo-de-trabalho-da-onu-sobre-empresas-e-direitos-humanos-divulga-relatorio-sobre-o-brasil/>>. Accessed on: July 14, 2016.

13 Available at: <<http://www.bb.com.br/docs/pub/inst/dwn/ProtocoloVerde.pdf>>. Accessed on: July 13, 2016.

(SAGP) launched in 2013 by The Coca-Cola Company. Moreover, the company adopts a “zero tolerance” policy in relation to any unjust appropriation of land, according to which the company requires its suppliers to take on the commitment to prevent and fight land grabbing and to defend and ensure the constitutionally established rights of traditional communities

with regard to collective ownership of land. PepsiCo also requires its suppliers to abide by the same standards of conduct as those adopted by the company itself.

Even the pressure from the market and from large sugar buyers are not sufficient to prevent the degrading nature of the companies operating in this sector.

SOME GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS:

PRINCIPLE 1

States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

[...]

PRINCIPLE 3

In meeting their duty to protect, States should:

A. Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;

B. Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;

C. Provide effective guidance to business enterprises on how to respect human rights throughout their operations;

D. Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.

[...]

PRINCIPLE 11

Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

[...]

PRINCIPLE 13

The responsibility to respect human rights requires that business enterprises:

A. Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;

B. Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

[...]

PRINCIPLE 22

Where business enterprises identify that they have caused or contributed to adverse

impacts, they should provide for or cooperate in their remediation through legitimate processes.

[...]

PRINCIPLE 23

In all contexts, business enterprises should:

A. Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;

B. Seek ways to honor the principles of internationally recognized human rights when faced with conflicting requirements;

C. Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.

[...]

PRINCIPLE 25

As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means [...], that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.

SOURCE: PREPARED BY THE AUTHORS BASED ON JOHN RUGGIE'S FINAL REPORT.

In tune with these basic axes, some guiding principles were defined, including:

PILLARS	PROTECT	RESPECT	REMEDY
WHO?	STATE	COMPANIES	STATE AND COMPANIES
WHAT?	Protect citizens against human rights violations committed by third parties, including by companies.	Respect human rights and national laws on the topic.	Ensure access to effective reparation mechanisms in case of violations.
HOW?	Establishing effective reporting means; enforcing laws designed to ensure respect for Human Rights; periodically evaluating the effectiveness of such laws, etc.	Complying with all applicable laws and respecting the internationally recognized human rights.	State: establishing, through judicial and extrajudicial means, reparation, mitigation and compensation measures. Companies: acting diligently and always seeking to mitigate the impacts of their activities and of their production chain.

WRONGDOINGS IN A SUGARCANE-GROWING ZONE

3

THE CONFLICT

Brazil's northeast region can offer everything humans need [...]. And that's where people who have not been allowed to own so much wealth live, or rather die of malnutrition, extreme poverty, starvation, disease, anguish. Enslaved people. Illiterate people. Deceived people. People who are afraid. Landless people. Jobless people. People deprived of dignity. People deprived of prospects for the future. People without a homeland. (JULIAO, 2009, p. 11).

The human rights violations reportedly committed by Usina Trapiche against the traditional community of the Sirinhaém islands and other artisanal fishermen and fisherwomen in the municipality can only be understood in the light of their historical and environmental context.

The municipality of Sirinhaém, where the conflict took place, is located in the south area of the Zona da Mata region in Pernambuco state¹⁴, which has been historically marked by the hegemony of the monoculture of sugarcane. The conflict investigated here is thus related to a fraction of the reports of human rights violations committed by companies operating in the sugar and ethanol industry in the region. Despite the prestige and strong political and economic support from the Brazilian State enjoyed by these sugar and ethanol mills, the impacts they cause on rights constitutionally ensured to traditional populations are alarming and frequent.

Sugarcane growing was one of the first economic activities implemented in the state by the Portuguese metropolis. Historical records show that the first shipment of sugar from the colony

¹⁴ The Zona da Mata region is one of five mesoregions that make up the state of Pernambuco. The others are called Sertão, São Francisco Pernambucano, Agreste and Metropolitana. This division was designed by the Brazilian Institute for Geography and Statistics (IBGE) for statistical purposes, since they are classified by that institute as geographical areas with social and economic similarities.



SUGAR CANE MONOCULTURE IN THE SOUTH OF ZONA DA MATA, PERNAMBUCO. PHOTO: CPT NE2

to Portugal took place in the year 1526, from the Itamaracá trading post, located in the territory of what is now the state of Pernambuco. The same trading post was the destination of ten first African slaves to arrive in Brazil, brought by Diogo Leite that year. The Zona da Mata of Pernambuco state was seen by the elites that exploited it as propitious for growing sugarcane due to its greater proximity to the European market and also to its favorable soil and climate conditions for this purpose.

Based on land concentration, environmental degradation, slave labor and extermination of indigenous peoples, the monoculture of sugarcane took roots and completely transformed the landscape in the region. What was once occupied by the Atlantic Forest and native peoples, became a bleak and monochrome green carpet. Therefore, “without slave labor and abundant

land, land to squander and destroy instead of carefully protecting, it [sugarcane production] would have been impossible” (HOLANDA, 2008, p. 48).

In Brazil’s recent history, in the twentieth century, the production model based on sugarcane monoculture

(...) othe monoculture of sugarcane took roots and completely transformed the landscape in the region. What was once occupied by the Atlantic Forest and native peoples, became a bleak and monochrome green carpet.

gained new political and ideological reinforcements that updated and justified its perpetuation. This happened because the world oil crisis of the 1970s, known as the “oil price shock,” put governments on alert about the

limitations of an energy matrix primarily based on non-renewable fossil fuels. Sugarcane began to be seen in Brazil as a possible solution to the problem of non-renewable energy sources, as in addition to producing sugar, its mills could also produce energy. It was in this context that the Brazilian government launched, in 1975, the National Ethanol Program through Decree No.



76,593. Known as PROALCOOL, the program provided incentives for growing sugarcane on a large scale for producing agrofuels, particularly ethanol¹⁵.

As a direct consequence of that sugarcane expansion cycle, family farmers began to be expelled from rural areas at an increasing and overwhelming rate during the period in which the ProÁlcool was implemented¹⁶. The document *Açúcar com gosto de Sangue* (sugar that tastes like blood), which was prepared in 1984 by the Federation of Agricultural Workers of the State of Pernambuco (Fetape), estimated that in the first five years of the ProÁlcool program alone about 40,000 small farms were destroyed in the Zona da Mata region in Pernambuco, creating a group of marginalized and landless people who are now forced to

make a living on the outskirts of urban centers of the sugarcane-growing region.

This context and programs such as ProÁlcool and many other programs implemented by the Brazilian government to favor the sugar/ethanol industry and cover up its abuses clearly reveal the power and influence on government of owners of large sugar mills in the past and present. In fact, this sector's ability to interfere and control local and national political spheres has always been profound, steady, and solid throughout history since the Portuguese invasion. And this interference is not restricted to backstage political lobbying; it is much more comprehensive, as the establishment of sugarcane monoculture in Brazil led to the emergence of a fierce, patrimonial, and violent oligarchy that only grew as it did because it was

¹⁵ Decree No. 76,593, Article 2: "The production of ethanol from sugarcane, cassava, or any other input shall be stimulated by expanding the supply of raw materials, with special emphasis on increasing agricultural production, modernizing and expanding existing mills, and setting up new production units as subsidiary or autonomous mills, as well as storage facilities."

¹⁶ Dabat (2007) warns that this phenomenon has already been recorded as resulting from Brazil's policy for its rural areas, but it was further intensified with the ProÁlcool program.



SUGAR CANE MONOCULTURE IN THE SOUTH OF ZONA DA MATA, PERNAMBUCO. PHOTO: CPT NE 2

constantly strengthened by the Brazilian State. Therefore, the origin of the power of sugarcane oligarchies in Brazil is closely linked to the power structure of the State.

For this reason, large mill owners often make themselves present in the State to this very day, strongly controlling and influencing government at local or national level. They are often favored by local politicians in town halls of municipalities surrounded by sugarcane fields and they are even often appointed to high-ranking political positions in the federal government. Obviously, representatives of sugarcane oligarchies hold positions in government to defend the interests of mill owners.

It is noticeable that they are supported by government not only in political terms. Through different incentives and credit lines, such as Finame¹⁷ and Prorenova¹⁸, the BNDES, which is one of the largest development banks in the world, has become the main instrument of the federal administration to support and ensure the financial sustainability of the sector.

Ademais, muito em virtude da produção deMoreover, largely due to the production of

ethanol and anhydrous alcohol, it became very easy for the sugar and ethanol industry to enjoy the status of “sustainable industry” in Brazil. In recent years, the debate on corporate social and environmental responsibility (CSER) involved sugar and ethanol mills in Pernambuco state and led to the emergence of a proposal to reconcile economic development with the alleged preservation of the environment and social well-being. As a result, the sector has been organizing itself through third sector organizations in Pernambuco state to use certain “seals” and certificates designed to certify the social and environmental responsibility of companies.

The most common “seals” granted to the sugar and ethanol industry include the ones granted by the Abrinq Foundation and by the Northeast Center for Environmental Research (CEPAN) and the ISO 14000 certifications issued by the International Organization for Standardization¹⁹.

The strong incentives provided to an intrinsically violent industry basically undermined the struggle for land and human rights of social movements, which have repeatedly reported

¹⁷ Program for machinery and equipment financing of the BNDES, whose objective is to finance production and the purchase of new machinery, equipment, and IT and automation goods manufactured in Brazil and accredited by the BNDES.

¹⁸ Program in support of the renewal and implementation of new sugarcane plantations of the BNDES, whose objective is to increase sugarcane growing in Brazil by financing the renewal and implementation of new sugarcane fields.

¹⁹ Non-Governmental Organization whose mission is to promote the standardization of some activities in the production chain with the aim of enhancing the efficiency of business activities and of making them safer and “cleaner.”

the abuses and violence committed by sugarcane oligarchies against rural workers, rural communities, and the environment. What these social organizations wanted, and still want, is to warn that even after so many centuries since they were laid in the Zona da Mata of Brazil's northeast region and despite changes in the economic realm and in production arrangements, the foundations of the monoculture of sugarcane have not changed over the years and centuries. The exploitation model implemented in the Zona da Mata region has led to land and income concentration, environmental degradation, and degrading work relations that persist to this day.

In terms of the figures of the sugar and ethanol industry, we can say that it continues to be recognized and seen as a structuring element of the domestic economy and as a key industry for Brazil's international market. According to the Ministry of Agriculture²⁰, "apart from being the largest producer of sugarcane, Brazil is also the largest producer of sugar and ethanol in the world, accounting for more than half of all the sugar sold in the world."

According to a report of the National Supply Company (Conab), the area cultivated with sugarcane for producing sugar and ethanol in the 2015-16 harvest season amounted to 8,954,800 hectares. The state of São Paulo stands out as the largest producer, accounting for 51.8%, followed by the states of Goiás with 10.1%, Minas Gerais with 8%, Mato Grosso do Sul with 8%, Paraná with 6, 8%, Alagoas with 4.2%, Pernambuco with 3.1%, and Mato Grosso with 2.6%²¹. By the 2018-19 harvest season, Brazil is

The exploitation model implemented in the Zona da Mata region has led to land and income concentration, environmental degradation, and degrading work relations that persist to this day.

likely to achieve the following rates, according to the Ministry of Agriculture:

[...] an average increase in the production rate of 3.25% and a harvest of 47.34 million tons, corresponding to an increase of 14.6 million tons in relation to the 2007-2008 period. In terms of exports, the planned volume for 2019 is 32.6 million tons.

However, despite the optimistic forecasts of the Ministry of Agriculture and although the sector is favored by government and has a close relationship with it, sugarcane mills were not immune to the effects of the recent crisis of the global and domestic economies and of climatic factors such as drought.

For this reason, the sugar and ethanol sector, which has always depended on government funds to conduct its industrial activities, began to face moments of recession recently. According to Antonio de Pádua Rodrigues, the technical director of the Sugarcane

Industry Union (Única), "despite its turnover of R\$90 billion, the sector owes R\$130 billion [...]"²² Still, despite a significant reduction in the funding provided to the sector as a result of the domestic economic crisis, the BNDES lent R\$ 2.744 billion to it in 2015²³.

In Pernambuco state, a sharp reduction has been recorded in the production of sugarcane since the early 1990s, when the ProAlcool program was discontinued. This reduction is attributed to the fact that sugarcane began to be grown in other regions, particularly in the mid-south region. Given this factor, some mills in the state went bankrupt or began to operate in other sectors of the economy, such as in the real

20 Available at: <<http://www.agricultura.gov.br/vegetal/culturas/cana-de-acucar>>. Accessed on: June 20, 2016.

21 CONAB. Acompanhamento da safra brasileira – cana-de-açúcar. V.2 safra 2015/16 – N.3 Terceiro levantamento/Dezembro 2015. Available at: <http://www.conab.gov.br/OlalaCMS/uploads/arquivos/15_12_17_09_03_29_boletim_cana_portugues_-_30_lev_-_15-16.pdf>. Accessed on: June 20, 2016.

22 Desembolso ao setor de cana cai 60% em 2015, diz BNDES. Globo Rural TV program, January 3, 2016. Available at: <<http://g1.globo.com/economia/agronegocios/noticia/2016/02/desembolso-ao-setor-de-cana-cai-60-em-2015-diz-bndes.html>>. Accessed on: June 20, 2016.

23 Cana-de-açúcar: Globo Rural faz balanço da crise do setor. Globo Rural TV program, June 5, 2016. Available at: <http://g1.globo.com/economia/agronegocios/noticia/2016/06/cana-de-acucar-globo-rural-faz-balanco-da-crise-do-setor.html?KeepThis=true&TB_iframe=true&height=550&width=850>. Accessed on: June 20, 2016.

estate sector. However, no significant reduction was recorded in sugarcane-growing areas, as active mills were able to acquire, either by lease or purchase, areas previously used by the bankrupt companies.

For this reason, as pointed out by Conab, Pernambuco state is the second largest producer of sugarcane in Brazil's northeast region, with sugarcane fields specifically concentrated in municipalities located in the state's north and south Zona da Mata. Sugarcane plantations in Pernambuco state are mostly intended for producing sugar. According to Sindaçúcar, there are 19 sugar mills in operation in the state. These mills are the following ones: Sugarcane Agribusiness Cooperative (Agrocan), Liberdade mill, Bom Jesus mill, CAN unit, Cruangi mill, Primavera mill, Tamandaré mill, Central Olho D'Água mill, Copesul mill, Cucaú mill, Ipojuca mill, Laranjeiras mill, Norte Sul mill, Nossa Senhora de Fátima mill, Petribú mill, Ribeirão mill, Santa Tereza mill, São José mill, and Trapiche mill. In addition to these mills, there are 13,000 sugarcane farmers in the state.²⁴

TABLE 1. SUGARCANE-GROWING AREA AND SUGARCANE PRODUCTION IN BRAZIL AND PERNAMBUCO STATE

	BRAZIL	PERNAMBUCO
Area cultivated with sugarcane - 2015-16 harvest*	8,954,800 hectares	273,400 hectares
Production in the 2015-16 harvest*	655,160,000 tons	11.3 million tons**

SOURCES: CONAB ESTIMATES - DECEMBER 2015 (*) AND SINDAÇÚCAR ESTIMATES - APRIL 2016 (**)

CONSEQUENCES OF A DEVASTATING PRODUCTION MODEL

While Brazil stands out in the international arena as the largest sugar producer and exporter in the world, sugarcane-growing regions in the country, such as Zona da Mata, have terrible human development indices. The doc-

ument *Diretrizes para reestruturação socioprodutiva da Zona da Mata: uma contribuição da sociedade civil* (guidelines for the socio-productive restructuring of the Zona das Mata region: a contribution from civil society), which was prepared in 2013 by a group of rural workers' organizations in the state of Pernambuco, reached the following conclusion on the Zona da Mata region:

[It is a] region marked by the exploitation of waged rural workers in the centuries-old monoculture of sugarcane for producing sugar - to a greater extent - and ethanol and by work under conditions similar to slavery. These workers are low-schooled black and brown men and women, many of whom are illiterates, who earn low wages and often work under degrading conditions (FETAPE, 2013, p. 9).

The sugarcane-growing area in the state consists of 43 municipalities with 1.3 million inhabitants, who account for 15% of the population of Pernambuco state²⁵. It is estimated that about 25% of this population lives in rural areas. The population living in extreme poverty accounts for about 18% of this group. However, this rate increases to 24.3% when those living in rural areas are included. With regard to basic sanitation rates, 55% of all private households are not served by a sewage disposal system and lack cesspools (FETAPE, 2013).

The human development indices (HDI) recorded in the region also show that it is marked by contrasts. Pernambuco state has the fifth lowest HDI in Brazil (0.718), according to the United Nations Development Program (UNDP). And it is precisely the Zona da Mata region that is marked by one of the lowest human development indices in the state and by one of the lowest indices for home sanitation and water supply. Examples include the municipality of Sirinhaém itself, with an HDI of 0.597; Buenos Aires with 0.593; Araçoiaba with 0.592; Itaquitinga with 0.586; Água Preta with 0.553; and Maraial with 0.534²⁶.

The indices mentioned here are remarkably lower and more precarious than national and

²⁴ Globo Rural TV program, May 6, 2016.

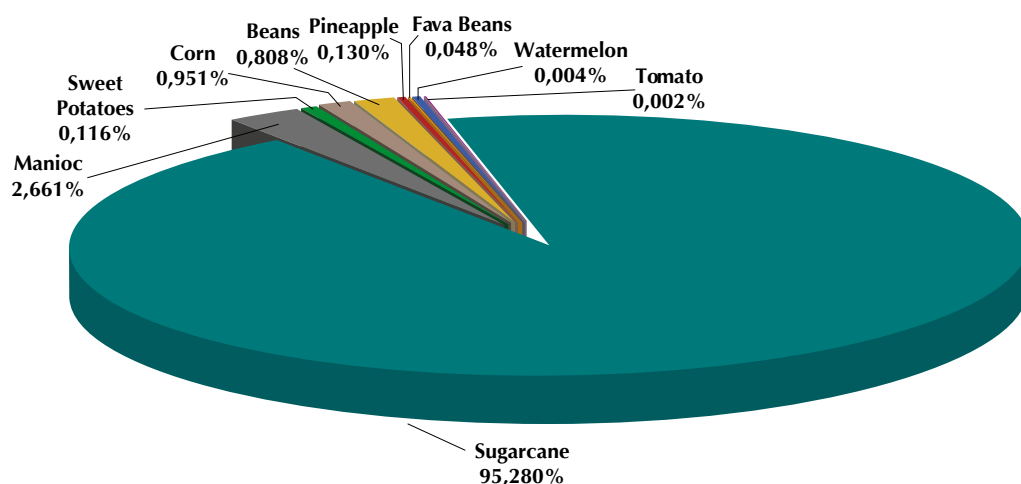
²⁵ According to the demographic census of IBGE - 2010.

²⁶ United Nations Development Program, 2010.

state averages and underline the severe impoverishment of municipalities located in the Zona da Mata region. It is no coincidence that the GINI indices for land concentration in these municipalities²⁷ are close to reaching absolute concentration. For this reason, the outskirts of many towns in the Zona da Mata region of Pernambuco state have become, over the years, areas marked by a concentration of poor men and women exposed to rights violations of all kinds. Many of these municipalities in that region are still mainly dependent on the monoculture of sugarcane and the people residing in them often have no other source of income and employment.

Another datum provided by the Brazilian Institute for Geography and Statistics (IBGE) on temporary crop production in the Zona da Mata region evinces even more the hegemony and control exercised by the sugar and ethanol industry in the region. In fact, according to a survey carried out by that institute in 2009, more than 95% of the land in the region was cultivated with sugarcane in that year. The rest of diversified crops accounted for only 5% of all agricultural areas in the region. The chart below shows, above all, the vulnerability of those municipalities due to their economic dependence on sugarcane plantations.

CHART 1. TEMPORARY CROP PRODUCTION IN THE ZONA DA MATA REGION OF PERNAMBUCO STATE



SOURCE: PREPARED BY JOSÉ PLÁCIDO DA SILVA JÚNIOR (2009) WITH IBGE DATA - 2009

In addition to land concentration with prevalence of large land ownership, environmental devastation has also been a major and harmful consequence of sugarcane monoculture practices. In Pernambuco state, sugarcane has been historically grown on the Atlantic Forest, one of the richest biomes on the planet in terms of biodiversity. Over the centuries since the Portuguese colonization, the forest was converted into sugarcane plantations. As a result of that conversion and unplanned urban occupation, the Atlantic Forest has been reduced to about only 2.5% of its original area²⁸.

A number of rights violations and signifi-

cant environmental alterations are attributed to sugarcane growing, such as: 1) Reduction in biodiversity caused by the suppression of native vegetation in riparian forests and monoculture practices; 2) Contamination of surface and groundwater as a result of excessive use of chemical fertilizers, liming materials, and pesticides; 3) Soil compaction caused by traffic of heavy machinery during sowing, fertilization and weed removal, and harvesting operations; 4) Exposure of the soil to the elements after harvesting, causing erosion and silting up of water bodies; 5) Emission of soot and greenhouse gases from sugarcane straw burning to facil-

²⁷ The GINI index measures concentration in a distribution that ranges from zero (perfect equality) to one (maximum inequality).

²⁸ 2008 data contained in an Analytical Report prepared by IBAMA included in the records of administrative proceeding No. 02091.000643/2008-45, p. 12.

itate its harvest; 6) Damages to the flora and fauna caused by wildfires; 7) High consumption of diesel oil during sowing, harvesting, and transportation operations (DINIZ; ANDRADE, 2007); and 8) Release of organic waste and effluents into water bodies. These are some of the severe damages caused by this industry that are not prevented, fought, and punished by the State, despite its clear legal duty to do so. This inaction on the part of the State constitutes a major contribution of government to the development of this sector throughout Brazilian history.

Because of all the facts described above, Zona da Mata is consistently seen as one of the most conflict-ridden regions not only in the state of Pernambuco, but in Brazil at large, according to CPT database. Every year, the Pastoral Land Commission records dozens of land conflicts caused by actions of owners of sugarcane mills to take more and more land and territories from traditional communities, squatters, fishermen, and people settled in land reform areas.

The main claims of rural workers and peasant communities in the Zona da Mata region today are for better working conditions and income, for land reform, and for measures to ensure their constitutional right to territories traditionally occupied by them, with the aim of promoting much-needed changes in the land and power structure in Brazil. The struggle for land and traditional territories in the country has been historically led by workers and peasant communities through movements of resistance. In turn, the Brazilian government, through actions of the executive, legislative, and judiciary branches, supports the notion that agribusiness – which is based on land concentration, export-driven monoculture schemes, environmental devastation, and labor exploitation – is the right path for rural development in Brazil.

THE PARTIES INVOLVED IN THE CONFLICT

THE USINA TRAPICHE COMPANY

Usina Trapiche is a private domestic company founded by José Maria Carneiro da Cunha in 1887 at the old Trapiche mill, located in the municipality of Sirinhaém. However, it was only in 1890, under the domain of the Agricultural and Mercantile Company of Pernambuco, that sugarcane was crushed for the first time in its facilities.

That company had a few different owners since then, and in 1997 it was acquired by businessman Luiz Antônio de Andrade Bezerra, from the Serra Grande group, who took charge of it and remains its owner to this day. In the 1998-1999 period, in one of its first harvests under the management of its new owner, the Usina Trapiche company became one of the largest sugar producers in Pernambuco state.

Recent surveys (SCHNEIDER, 2010) show that Usina Trapiche has an area of 26,662 hectares.

(...) Usina Trapiche has an area of 26,662 hectares. The land under the ownership of the mill is so large that it covers approximately 72% of the 36,907-hectare territory of the municipality of Sirinhaém.

The land under the ownership of the mill is so large that it covers approximately 72% of the 36,907-hectare territory of the municipality of Sirinhaém. Part of this land was acquired through purchase and sale contracts and another part was made available to the company by the federal government under long-term tenure contracts. Sugarcane is grown in about 18,500 hectares as a monoculture. The company claims to have 8,202 hectares of preserved area, including about 3,000 hectares of mangroves (which is federal government land leased to the company), 104 hectares of riparian forests in 37 km of rivers, and approximately 5,000 hectares of native forests.

The land leased to the Usina Trapiche company includes a large mangrove swamp where the 17 estuarine islands occupied by the traditional community of marine and coastal artisanal fisherfolk and gatherers – shellfish



TRAPICHE MILL, SIRINHAÉM, PERNAMBUCO, 2016. PHOTO: CPT NE 2

collectors, crab collectors and fruit collectors – is located. It should be noted that the tenure regime consists in transferring to a private party the right to use and enjoy an area, in this case an area belonging to the Brazilian State. However, for a long-term tenure contract to remain valid, the lessee must abide by the contract on a regular basis, pay the amounts agreed upon regularly, not leave the area, and promote appropriate use of the land – which includes not resorting to violence and not causing environmental damages.

Three rivers are being exploited by the company for producing ethanol and sugar, its main product: the Quilebra, Itapirubu and Sirinhaém rivers. On the latter, the largest of all, a small hydroelectric plant was built by the company.

The sugarcane fields belonging to Usina Trapiche are located in a predominantly hilly area, which makes it impossible to a certain extent to implement fully mechanized sugarcane harvesting systems. Thus, this activity is carried out by rural workers known as *canavieiros* in the region. According to Benevides (2010),

about 6,500 of these workers are hired during harvest seasons and 3,500 during off-seasons. The mill is also located a few kilometers away from the ocean and from the Suape port, with the aim of facilitating its activities as a sugar exporting company. It is estimated that about 60% of its production is meant for export to the international market²⁹.

Both in the last harvest season (2014-2015) and in the current one (2015-2016), the company accounted for a significant share of the sugar export quota to the United States of America (USA). In 2015, the Ministry of Agriculture, Livestock and Supply set a preferential sugar export quota to the USA for states located in Brazil's north and northeast regions at 161,200 tons. Fifteen mills operating in Pernambuco state were awarded a Certificate of Quota Eligibility, including the Trapiche mill. Along with Usina Olho D'Água, the Usina Trapiche company accounted for the largest amount of short tons exported from Pernambuco to the United States (6,934.67 - Usina Trapiche and 7,811.39 - Usina Olho D'Água). It should also

29 Usina Serra Grande. Available at: <<http://www.revistaecoenergia.com.br/images/revistas/edicao14/pgo4a06.pdf>>. Accessed on: February 7, 2016.

be mentioned that, according to a normative instruction published in the Official Gazette (DOU) on November 7 2014³⁰, the states of Alagoas e Pernambuco were the ones that became responsible for the highest percentage of exports among all states in the northeast (46.41% and 38.41%, respectively).

Na safra atual (2015/2016), conforme o DOU puAccording to the Official Gazette published on November 26, 2015³¹, there was no change in the percentage of sugar exports from Brazil's northeastern states to the US in the current harvest season (2015-2016). In this season, the two mills, Trapiche and Olho D'Água, will continue to account for most sugar exports to the US among all companies in Pernambuco state. However, the amount of short tons to be exported is higher: 7,996.18 by Trapiche S/A and 8,248.18 by Central Olho D'Água.

In addition to exports, the Trapiche Usina company sells its production mostly to large multinational companies such as Coca-Cola, Ambev, Schincariol, Unilever, Pepsico, Bunge, among others. The Company also sells its production in the domestic retail sugar market. In addition to this product, the mill has the capacity to generate its own auxiliary power and also has a distillery for producing anhydrous

and hydrous ethanol³².

The company is also the owner of a sugarcane mill that receives financing from the BNDES. Between 2010 and 2015³³, the Trapiche company benefited from 36 financing operations contracted with the Bank amounting to over R\$22 million. According to the BNDES, the amount of the financing was allocated through by BNDES Finame Program (machinery and equipment financing program) for buying new equipment and machinery with the aim of increasing the company's production capacity.

For the purpose of having access to government funding and contracts with large sugar-buying companies, the Trapiche company – as well as other mills affiliated to Sindaçúcar – uses certain seals and certificates to confirm its corporate social and environmental responsibility. Among others, the company was awarded the seal of the Abrinq Foundation, a nonprofit organization engaged in actions to defend the rights of children and adolescents whose main purpose is that of eradicating child labor. The Trapiche company was also awarded a certificate from the non-government organization Conservation International and is supported by other entities such as the Association for the Protection of the Northeast

30 Available at: <<http://www.jusbrasil.com.br/diarios/79666874/dou-secao-1-07-11-2014-pg-4>>. Accessed on: June 24, 2016.

31 Available at: <<http://www.jusbrasil.com.br/diarios/105074488/dou-secao-1-26-11-2015-pg-14>>. Accessed on: June 24, 2016.

32 Usina Serra Grande. Available at: <<http://www.revistaecoenergia.com.br/images/revistas/edicao14/pg04a06.pdf>>. Accessed on: February 7, 2016.

33 Public information available on the BNDES website. Available at: <http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/BNDES_Transparente/Consulta_as_operacoes_do_BNDES/>. Accessed on: February 7, 2016.

SIGN POINTING TO THE LOCATION OF TRAPICHE MILL, IN PE-064. PHOTO: CPT NE2



“RIPARIAN FOREST RECOVERY AREA” - TRAPICHE MILL’S SIGN IN PE-064. PHOTO: CPT NE2



Atlantic Forest (Amane) and the Northeast Center for Environmental Research, CEPAN (BENEVIDES, 2010), which is developing a project with sugarcane mills in the state with the aim of promoting actions designed to preserve the Atlantic Forest.

In order to supply sugar to some clients known worldwide such as Coca-Cola and Pepsi, the mills have to adjust their industrial activities to the standards imposed by those multinationals. According to representatives of Coca-Cola³⁴ and of Pepsi³⁵ in Brazil, these multinationals have had a business relationship with the Trapiche company for about 15 and 10 years, respectively. Even though the company's supply of sugar accounts for a very low percentage of all the sugar bought by these companies, it can be said that its contractual relationship with these two large multinational companies is very important to Trapiche.

Recently, these multinationals have been the target of the international "Behind the brands" campaign launched by the international non-government organization OXFAM, which was designed to analyze the relationship between the international sugar trade and cases of rights violations, land expropriations, and land conflicts in Brazil and other countries in the world. Usina Trapiche company, which supplies sugar to both multinationals, was directly involved because it has been accused for several years, both domestically and internationally, of having deprived a community of marine and coastal artisanal fishermen and fisherwomen and gatherers from their traditional territory on the Sirinhaém islands.

International pressure began to mount since then for the aforementioned major buyers of sugar to adopt stricter relationship and business policies not only with the Trapiche company, but also with other sugar suppliers involved in rights violations. Examples like this show that, despite the certificates it has been awarded, the Trapiche company stands out in the list of companies accused of degrading the environment and of creating problems for people living around its facilities.

Businessman Luiz Antônio de Andrade

Bezerra, the owner of the Trapiche company, also owns the company Usina Serra Grande, located in the municipality of São José da Laje in Alagoas state. That company was founded in 1894 and its majority shareholding was sold to the Dias Lins Group, led by the grandfather of the current owner, in 1961. In 1997, Serra Grande acquired the Usina Trapiche company in Pernambuco.

Apart from being one of the oldest and the largest sugar-producing mill in Alagoas, Serra Grande is also one of the largest owners of land in that state. Covering an area of about 31,000 hectares, it is larger than the city of São José da Laje, where its headquarters is located.

Together, the Usina Serra Grande and Usina Trapiche companies occupy about 17,500 hectares of Atlantic Forest, thus controlling most of the remaining area of native Atlantic Forest in Brazil, according to Sindaçúcar-state of Pernambuco.

THE TRADITIONAL FISHING COMMUNITY THAT LIVED ON THE ISLANDS OF THE SIRINHAÉM RIVE

Of the 32 river islands making up the estuary of the Sirinhaém river, many have their own names. These include the following islands: Grande, Tijolo, Val, Macaco, Cafundó, Constantino, Raposinha, Cuscuz, Clemente, Coringa, Cais, and Jenipapo. The islands were named a few dozen decades ago by a people who made that region their home and livelihood.

According to oral reports by former residents, the origin of the traditional community of Sirinhaém islands dates back to the early twentieth century. Former residents say that their memories of the first families that settled there always lead to its first inhabitant: the grandmother of Ms. Djanete Cristina Maria, around 1914.

According to a technical report prepared by IBAMA in 2008 (Socioeconomic study of former residents and fishing communities living on the islands and estuary of the Sirinhaém River/state of Pernambuco), other family groups set-

34 Interview held with Coca-Cola representatives in Brazil through e-mails on May 31, 2016.

35 Interview held with Pepsi representatives in Brazil through e-mails on May 31, 2016.

tled in the islands – other than those who already lived there – during the periods between sugarcane harvests and, over the decades, the number of households increased as residents' children grew up, married and built their own homes in their parents' small farms.

A 75-year-old fisherwoman who lived on the Rosa da Silva³⁶ islands for over 55 years talks about her arrival there:

I worked at a sugar mill and I started to think to myself that I was a very young girl, working there without any rights at all. I got that thought into my head. I worked illegally. So one afternoon, I set off and took a path that led me straight to those mangrove borders. When I got there, I saw the mangroves. I started to walk around that island – my God, what a great place to live.

Rosas's family, just like the other families who settled there, developed community and intrinsic ties with the mangroves³⁷.

Artisanal fishing and subsistence farming were the main activities carried out by the community. They fished mainly by catching crustaceans, mollusks and fish in the mangroves by

hand or using handmade fishing traps. *Stout* razor clams, crabs, oysters, blue land crabs, mangrove root *crabs*, *silvery mojarra*, moray eels, and snooks were some of the species that served as food for the families. Some families used to keep them in artisanal fishponds until they were taken to be sold at street markets. Luiz Otavio, an IBAMA agent and member of the team that conducted the socioeconomic study of the area, says that moray eels, for example, were fished mainly by the families that lived on the Sirinhaém islands, as other fishermen in the municipality or other areas did not use to fish the species. This activity, which was a major source of livelihood for those families when they lived on federal government lands, could be performed at any time of day or night, as it depended on tidal changes. Therefore, the fact that they lived nearby the mangroves made it easier for them to fish.

Besides fishing, which provided food for families and whose surplus was sold at local markets in the municipal seat, most former residents also practiced subsistence farming in dry areas of the islands. They used to grow

36 Interview conducted by CPT team with a fisherwoman at her place in Barra de Sirinhaém in September 2015.

37 Transitional coastal ecosystem between land and sea environments.



FISHERMEN FAMILIES WHEN THEY LIVED IN THE ISLANDS OF SIRINHAÉM, AROUND 1980.
PHOTO: PERSONAL COLLECTION/FRIAR SINÉSIO ARAÚJO



FISHERMEN FAMILIES WHEN THEY LIVED IN THE ISLANDS OF SIRINHAÉM, AROUND 1980.

PHOTO: PERSONAL COLLECTION/FRIAR SINÉSIO ARAÚJO.



FISHERMEN FAMILIES WHEN THEY LIVED IN THE ISLANDS OF SIRINHAÉM, AROUND 1980.

PHOTO: PERSONAL COLLECTION/FRIAR SINÉSIO ARAÚJO

cassava, sweet potatoes, corn and beans, apart from raising small animals such as chicken, turkey and guineafowl. The families also engaged in growing and managing fruit trees and processed the cassava harvested in the area, which improved the diet of the islanders³⁸.

According to a survey conducted by IBAMA (2008), there were about six flour mills on the islands used for flour and tapioca production. These structures acquired a symbolic value that went far beyond their economic impact, as they became a meeting point for the community. Also worthy of note were the cashew raisins (made with fruits from cashew trees in the area) that women produced to sell at street markets.

The labor relations established between

Besides fishing, which provided food for families and whose surplus was sold at local markets in the municipal seat, most former residents also practiced subsistence farming in dry areas of the islands.

community members, whether in fishing, farming or flour production, were characterized by family partnerships. In addition, the knowledge about the social reproduction of the community was passed on from older to younger generations.

Thus, the artisanal fishing and subsistence farming activities were perpetuated and consolidated as the community's traditional way of life.

The young Pedro Pereira Junior, the son of one of the oldest residents on the islands, Pedro Pereira, says that his father taught him "all sorts of things. [...] When I think about my future today, I think about the same profession that God gave me. He led me to be a fisherman. What that old man [father] taught me, I learned. I've been in this profes-

³⁸ According to a survey based on interviews with former residents.

sion since I was a kid” (SILVA JÚNIOR, 2011).

When 35-year-old fisherwoman Maria das Dores was interviewed while she was still living on the Sirinhaém islands, she also highlighted that the tradition was kept alive through the ties between her family members:

Our mother would go to the mangroves and take us with her. We were all very young, and we all followed her lead. She caught crabs. She'd fish everything and teach us, so we could learn about it when we grew up. And we learned it – me, my sister and my brothers. We still live in the mangroves today... so we keep living our lives, raising our children, brothers, nephews and families, all in here. We all grow up right here in the mangroves. We have fish, snooks, other fishes like jenny mojarra, oysters, shellfishes, mussels. We take everything we find in the mangroves, we really live off the mangroves. This is a good place to live.³⁹

A comunidade, através das gerações, consolidou over generations, the community consolidated not only their artisanal fishing and subsistence farming activities, but also a specific way of interacting with the environment. They developed a strong affection for the place and all community members. Their autonomy and food sovereignty, solidarity relationships, and the sharing between community members, as well as their relationship of respect, understanding and harmonious coexistence with the land, became an intrinsic part of the community.

Therefore, the fisherfolk had been the legitimate owners of the land for a long time, living there peacefully and using it to meet their basic needs and ensure their dignity through its use and enjoyment. It thus characterized the presence of the so-called ownership-work and ownership-housing concepts, meaning that the land on the estuarine islands of the Sirinhaém river was fulfilling its social function.

“A GOOD PLACE TO LIVE IS WHERE WE CAN KEEP OUR BELLIES FULL”

39 CPT's records – interview conducted in Sirinhaém in 2009.

40 Interview conducted by CPT in Sirinhaém in June 2015.

41 CPT's records – interview conducted in Sirinhaém in 2010.

42 Interview conducted by the CPT in Sirinhaém in June 2015.

In the interviews conducted for this publication, an expression was constantly repeated by the former residents of the islands to characterize life there: “belly full.” Several testimonials link this feature to the islands. “A place where we can keep our bellies full” is a good place to live. All former residents agree with that, indicating that the community settled in an abundant territory that provided shelter, work and living conditions.

I lived off fishing. I used to plant beans, potatoes, corn, cassava. I had a flour mill where I processed flour, tapioca, *manuê* (cassava cake). I used all of that for my own subsistence, and then both for me and for others, and would sell the rest for my own safety and financial well-being. (José Luiz Santana, fisherman of the Sirinhaém islands in the state of Pernambuco⁴⁰).

I planted my own potatoes, which I'd give away, eat or toss out. I planted manioc. I raised animals. I fished. The mangroves were actually very close to our kitchen. Sometimes after an entire week, I'd go to the mangroves on Friday to catch fish so I could sell them to buy food at the street market and even keep some extra cash (Alfredo José, fisherman of the Sirinhaém islands in the state of Pernambuco⁴¹).

It was very abundant, with lots of shrimps and different kinds of crabs. Life was good there in the beginning. [...] During Saint John celebrations, the kids would light a fire and set off fireworks. We had corn, it was wonderful. There was a flour mill at Mané Lucena's house. He has already passed away. We used to plant cassava, potatoes, corn ... (Marisa Silvério, fisherwoman of the Sirinhaém islands in the state of Pernambuco⁴²).

He had a good life there. We lived in a quiet way, we had all fruit trees there. We raised animals like chicken, pigs, ducks. We raised every animal we could. Our food came from the mangroves. When we fished, we'd sell our catch and get our *pirão* (thick cream made with manioc flour and fish), right? (José Marcelino, fisherman of the Sirinhaém islands in the state of Pernambuco⁴³).

The abundance of food and access to water were certainly important elements for the families to settle and live there. But on the Sirinhaém islands, just as in other traditional communities living in Brazil, the cultural, intangible and symbolic aspects and material conditions laid the foundation for shaping that traditional territory.

In the socioeconomic study of the community, IBAMA (2008) pointed out that, during the years that the families lived on the islands, they lived a simple life,

[...] yet they organized the space in a very unique way, based on an intimate and direct relationship with the environment – passed down for generations – that enabled them to extract from the estuary the natural resources necessary for their survival. (IBAMA, 2008)

The families that made up the traditional community of the Sirinhaém islands are actually direct descendants of the original indigenous peoples who lived in the region, mixed with the African descendants who, for centuries, were captured and forcibly brought to Brazil to work as slaves in sugar mills in Pernambuco. Through ethnoknowledge, these communities have for centuries developed a unique relationship with nature, learning the need to take care of it and harvest its fruits for survival. This is the way of life of artisanal fisherfolk and collectors of crabs, oysters and so many other seafood and mangrove food.

TESTIMONY BY FISHERWOMAN MARIA NASARETH, WHEN SHE STILL LIVED ON THE SIRINHAÉM ISLANDS IN 2010:

I like it here because it's a good place to live, a place where we keep our bellies full. We can find everything we want here. If you want a fish, you find it. If you want a crab, you got it. Crabs, fish, mussels, moray eels – you can find it all here in the mangroves. I like it here because it's a very good place to live. Here we can get our bellies full. I like fishing, I like to grow my own food, I really like it here. We get our fishing nets and drop them in the river to catch fishes like *camorim*, *saúna*, *carapeba*. We go to the mangroves to catch *stout* razor clams, shellfish, mussels. We have everything we need here in the mangroves, no one goes hungry, it's great here. I'll never leave here. During the cashew-harvesting season, we get lots of cashew and cashew nuts. I start making cashew raisins and sweets. [...] I'll stay here till the end of my life, God willing. [...] My father was born and raised here, my mother was born and raised here. My grandparents were born and raised here, my great-grandmother, my mother's grandmother, was born and raised here. She was a *cabocla* (person of mixed race with one white and one Indian parent), an Indian woman who was born and raised here. Everyone in my family was born and raised here and their bellies were always full. If I lived on the streets, I'd go hungry, like many people who live on the streets. Many homeless people live on an empty stomach. Many of those who live on the streets cannot have their bellies full all the time. It's much better to live on the island [...].



**DRAWINGS MADE BY CHILDREN OF THE FISHERMEN FAMILIES OF THE ISLANDS OF SIRINHAÉM. THE DRAWINGS SHOW HOW THE CHILDREN FELT ABOUT THEIR LAND.
PHOTO: ACERVO CPT NE 2**

OVERVIEW OF THE CONFLICT

The conflict involving the traditional fishing community and Usina Trapiche on the Sirinhaém islands portrays a well-known reality in the Zona da Mata region in Pernambuco: the encroachment of the sugar and ethanol industry on lands historically occupied by rural

peoples. Conflicts like this, which result from different forms of use and appropriation of land and natural resources, are responsible for causing the Zona da Mata region to be one of the main areas of conflict in Brazil.

The first attempts to expel the traditional community living on the Sirinhaém islands were made in the 1980s. Back then, several sugarcane mill owners in the Zona da Mata region were euphoric about the incentives granted by Proálcool, a program designed to stimulate the production of ethanol. They freely encroached on the lands and territories of rural populations. The same thing happened in Sirinhaém. Usina Trapiche, perhaps with the aim of expanding its sugarcane plantations or simply fulfilling its legal obligation to set aside a native forest area corresponding to 20% of its property, wanted to take ownership of a land that had been historically owned by traditional communities. In an interview with CPT, Friar Hilton, from the Franciscan Province of Santo Antonio do Brasil, one of the first organizations to provide assistance and religious support to the families, depicts the period as a troubled and violent one.

According to interviews conducted with former residents, the company initially tried to intimidate and expel the islanders by threatening them and destroying their fruit trees. When families showed the first signs of resistance, the company's owners drew up an alleged loan for use agreement in 1988. Through this agreement, Usina Trapiche pledged to refrain from trying to remove the families from there for a ten-year period, while at the same time paving the way for its dominion over the land.

According to accounts, in 1998, ten years after the signing of the alleged agreement, Usina Trapiche was acquired by businessman Luiz Antonio de Andrade Bezerra (from the Serra Grande Group/Alagoas) and the dispute over the territory on the Sirinhaém islands reignited in a more intense way. CPT received complaints that the company was using the false loan for use agreement as a basis to intimidate, threaten, expel and start repossession proceedings against the islanders.

To justify the expulsion of families, the company initially claimed in the repossession complaints that the area would be set aside for

its employees to live in⁴⁴. On subsequent occasions, however, the company itself said that the area was not suitable for housing and that this would have negative impacts on the region's native ecosystem⁴⁵. In the Public Civil Investigation proceedings (p. 208), the company stated the following:

The [company's] board [...] believes that it needs to preserve the remaining vegetation in permanent protection areas on its land, particularly because this is a requirement under the environmental law and also an important element for its legal reserve to be created.

One can see that the company began to use arguments with an allegedly altruistic and environmental bias for the sole purpose of incorporating the area into its Legal Reserve. The company then started to claim that it was in the best position to ensure the protection of the estuarine environment, when in fact that was exactly what the traditional community had been doing for generations.

After several eviction attempts, the families decided to react: they requested the then Governor of the state of Pernambuco, Miguel Arraes de Alencar, to take urgent steps to remedy the violations and ensure that they would be able to continue to live on the Sirinhaém islands. In response to the specific context of conflict, that same year the Governor issued state decree No. 21,229/98, creating an Environmental Protection Area (APA)⁴⁶ in the region. The APA, however, was never actually created⁴⁷. But even if it had been created, it would not change the tenure system under which the lands were held, as the company would formally remain the beneficial owner of the land as a result of the long-term

tenure contract entered into with the federal government.

With the ongoing abuses perpetrated by the company, the traditional community and local social organizations continued to seek a permanent solution to the conflicts on the Sirinhaém islands. Ever since the beginning, the community knew that their rights would only be guaranteed if they were allowed to continue to live in their traditional territory. With the company obtaining favorable rulings in the repossession proceedings against the fisherfolk, the families decided to demand the Federal Government's Heritage Secretariat (SPU) to recognize their secular occupation on federal lands and, in the early 2000s, requested the agency to cancel the tenure granted to the company. The SPU, however, failed to take further actions during that period.

In 2003, the Pastoral Land Commission (CPT) started to support the traditional community, joining forces with other collective subjects that had been playing an active role in the area, such as fishermen's associations, the Fishermen's Pastoral Council (CPP), NGO Terra de Direito, and the Franciscan Province of Santo Antônio do Brasil/Sirinhaém. During conversations with the families affected by Usina Trapiche, CPT identified a series of impacts and abuses in the process of evicting the islanders, as well as environmentally damaging activities that affected not only the estuarine islands, but also a large section of the Sirinhaém river and its riparian forests. In view of this situation, CPT sought to reinforce and echo the complaints made by the community concerning, among other aspects, the decline in fish supply due to water pollution caused by the company.

The company then started to claim that it was in the best position to ensure the protection of the estuarine environment, when in fact that was exactly what the traditional community had been doing for generations.

44 This information is included in the complaints filed by the company in repossession proceedings No. 3,082/98, 3,088/98, 3,125/98, 3,126/98, 3,127/98, 3,128/98, 3,131/98.

45 Public Civil Investigation No. 896/2012-15, whose purpose is to investigate the slowness of ICMBio in concluding the administrative procedure for creating the RESEX that was analyzed by the Federal Prosecutor's Office.

46 A type of sustainable use protected area designed to ensure the preservation and sustainability of natural resources while also promoting a planned human occupation.

47 At the time of this publication, the APA had not been created and there was neither a management plan nor a managing council in place



SATELLITE PHOTOGRAPH OF THE SIRINHAÉM RIVER'S ESTUARY AND THE MANGROVE: MAIN LOCATION OF THE LAND CONFLICT.

PHOTO: GOOGLE IMAGEM

Together with the fishing community, CPT also made a new attempt to suspend the tenure of the islands granted to the company after verifying that Usina Trapiche had not paid the annual fee owed to the federal government and also because the land was not fulfilling its social and environmental function.

While the SPU was analyzing the request for canceling the long-term tenure contract, the community also decided, based on the applicable Brazilian law, to demand the creation of an Extractive Reserve (RESEX) in the area in 2006, as another front in the struggle for consolidating their territory. An Extractive Reserve Conservation Unit promotes a sustainable balance between biodiversity conservation and the activities and presence of traditional gatherers.

It was only in 2007 that the SPU in Pernambuco⁴⁸ denied the request for renewing the tenure contract to Usina Trapiche. In 2009, however, the SPU in Brasilia issued a ruling in

favor of the company. This ruling renewed the tenure contract for the company and overruled the decision previously made by the SPU in Pernambuco.

While the renewal of the tenure in favor of the company would not prevent the Extractive Reserve from being created, it would postpone the land regularization process after the creation of the protected area due to the need to compensate the company, which would take some time. For this reason, after knowing that the tenure contract had been renewed with the company, the community stepped up its efforts to create the Extractive Reserve of Sirinhaém.

However, the immediate effect of this mobilization was an increase in threats and other forms of aggression by Usina Trapiche against the two families who were still living on the islands of the Sirinhaém River estuary back then in 2009 (the families of sisters Maria das Dores dos Santos and Maria Nasareth dos Santos, the

⁴⁸ The Federal Heritage Department (SPU) is a federal agency under the Ministry of Planning, Budget and Management with a legal mandate to manage, oversee and grant titles to federal lands, ensuring that they fulfil their social and environmental function. The SPU's internal structure is made up of Regional Departments in each Brazilian state, and the Federal Heritage Department in Pernambuco (SPU/PE) is responsible for controlling public waterfront land in the state of Pernambuco.

great-grandchildren of the first known resident in the community's history), making their lives even more difficult and frightening. After the State refused to support the community's rights to its land, the company rushed to evict the families from the area.

Unable to continue to resist without putting their physical integrity at risk, the last two families were evicted from their traditional territory in 2010, this time due to a ruling issued in the repossession proceedings filed by the plant⁴⁹. Despite several demonstrations to raise the awareness of authorities about the case and several national and international reports on the abuses suffered by the remaining traditional families, the legal authorities in Pernambuco did not protect the fisherwomen's rights.

During the years that the families remained on the Sirinhaém islands resisting their expulsion, they received solidarity and support from different civil society organizations and from men and women who supported the community's struggle to defend their territory. Researchers from different fields of knowledge and environmental and human rights organizations followed the case since the first reports of violence, questioning and requesting the public bodies and agencies to take definitive steps to remedy the cases of rights violations reported against the company.

Some examples include the rapporteur missions of the National Platform for Human, Economic, Social, Cultural and Environmental Rights (DHESCA) in 2007 and 2008, when they detected cases of human rights violations by Usina Trapiche and proceeded to call on state agencies to redress the rights of the affected traditional community. In 2008, NGO Repórter Brasil also prepared a study called "Brazil of Biofuels - Sugarcane: Impacts of crops on lands, environment and society," which uses the conflict between Usina Trapiche and the

traditional community as a case study⁵⁰.

Apart from these initiatives, Amnesty International conducted an international campaign to raise awareness and put pressure on the federal and state government to create the Extractive Reserve in the area. In 2010, the organization made a documentary titled "Brazilian community fights pressure to move,"⁵¹ which chronicles the struggle and resistance from the families of sisters Maria das Dores and Maria Nasareth dos Santos when they were about to be evicted from the islands.

OXFAM International has also closely monitored the conflict and included the case in its international campaign "Behind the brands," designed to expose the relationship between the international sugar trade and cases of rights violations, land expropriations, and land conflicts in Brazil and other countries in the world. In 2013, as part of this campaign, the organiza-

Unable to continue to resist without putting their physical integrity at risk, the last two families were evicted from their traditional territory in 2010, this time due to a ruling issued in the repossession proceedings filed by the plant.

tion published the report "Sugar Rush," which found that large multinationals like Coca-Cola and Pepsi were purchasing sugar from Trapiche, a company directly involved in reports of land conflicts. Apart from these organizations, others contributed toward echoing the international

allegations, such as FIAN International.

Several public bodies and agencies were called on to intercede in favor of the abused families as the rights violations were attributed to the company. The following organizations and bodies monitored the conflict: Prosecutor's Office of the State of Pernambuco, Federal Prosecutor's Office, National Institute for Colonization and Agrarian Reform (INCRA), Chico Mendes Institute for Biodiversity Conservation (ICMBio), Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA), State Agency for the Environment and Water Resources (CPRH), Federal Heritage Department (SPU), National Agrarian Ombudsman's Office

49 Legal proceedings No. 0000085-80.1998.8.17.1400, which was heard by the Civil Court of Sirinhaém in the state of Pernambuco.

50 Available at: <http://www.reporterbrasil.org.br/documentos/o_brasil_dos_agrocombustiveis_v3.pdf>.

51 Video released on September 29, 2010. Available at: <<https://www.youtube.com/watch?v=k73yXdEfsxQ>>.

of the Ministry of Agrarian Development (MDA), National Committee to Combat Rural Violence, Legislative Assembly of Pernambuco, Government of the State of Pernambuco, among others such as the state Department of Justice and Human rights and the state Department of Environment and Sustainability.

Finally, as none of the above-mentioned bodies and agencies took any conclusive action to ensure the community's territorial rights, either by canceling the long-term tenure contract or even creating the extractive reserve in the area, the community was completely dispossessed of their land. The families were pushed to the outskirts of Sirinhaém, where they were relegated to the *favelas* (slums) and to a perverse situation of poverty they had never faced be-

fore. All that was left were the effects of a cultural destruction, namely the community's uprooting, the disintegration of community ties, and the suppression of their identity and traditional ways of life.

Nowadays, those who pass through the roads in the southern coast of Pernambuco for tourism and leisure cannot imagine that there are people with a strong history of stubbornness and resistance against the sugarcane monoculture living in those alleyways on the outskirts of Sirinhaém. There, amid narrow streets, alleys and tiny houses, we can find some of the former residents who keep alive the memory of the territory, which they see as a paradise and with which they hope to reunite every day.

4

CASES OF RIGHTS VIOLATIONS

EVICTIONS OF FAMILIES

All of the 57 traditional fishing families who lived on the Sirinhaém islands were evicted from those areas by Usina Trapiche between 1998 and 2010. To do so, the company, through its employees, used various methods, including preparing a fake loan for use agreement, filing charges with the Prosecutor's Office against the fishermen for environmental crimes, destroying crops, fruit trees and houses, setting fires, making threats, and obtaining forced agreements – all with the aim of intimidating and discrediting the islanders and the representatives of civil society organizations that were trying to support them. The company used these strategies to displace the families from their territory to other areas, thus infringing fundamental human rights.

THE FAKE LOAN FOR USE AGREEMENT AND ITS IMPLICATIONS

In 1988, Usina Trapiche fabricated a free loan contract, legally known as loan for use agreement. Through the contract, the company would assign portions of land of one of the 17 estuarine islands (Constantino Island) to seven families who lived on the islands for a ten-year period. At the end of this period, in 1998, the land ownership should be returned to the company.

Years later, the company would use the document as legal evidence to refute the adverse possession claim lodged by the community and support a fictional theory that the company had direct ownership of the land and that the families were there because the company had allowed them to. In other words, the contract not only pretended to allow the families to stay in the area, but also created a timeframe for their arrival there, which would be 1988, when in fact the families had been there for many decades, without ever asking for the company's permission or facing resistance for living in the area.

As stated above, upon expiration of the con-

tract, the families would have to return the lands to the company – lands that had never been “borrowed” in the first place and that constituted the traditional territory of the community. Under Brazilian law, if the families did not do that, it would represent a breach of contract and, if they did not leave the property, they would be committing an illegal act called disseisin (i.e. a violation of the company’s land tenure rights) that could give rise to a lawsuit to evict the families, which in fact happened.

However, the families say that the company told them that the loan agreement in question was simply a promise by the company to refrain from trying to remove them from the area through threats of expulsion and that they would talk again after the ten-year period. It was not made clear at the time that, through the contract, the families would be formally stating that they began to live in the area in the year of signature, misleading them and producing formal evidence that the land had always been owned by the plant. There was clearly a defect of consent, as there is a discrepancy (intentional on the part of the company) between the will of the contracting parties and what was stated in the contract, which resulted from misleading information provided to the families at the time of its signature, as they thought they were signing the contract for a different purpose.

The legal vulnerability of the islanders at the time of signing the agreement with Usina Trapiche is undeniable, as even those who signed their names⁵² were, at best, functionally illiterate and had no technical knowledge of what a loan for use agreement was, let alone its assumptions and the consequences of signing it.

Thus, considering that there was a manifestation of intent that did not correspond to its

intimate and genuine will, negatively affecting one of the contracting parties (fisherfolk), such acts would fall under what the Civil Code calls an illicit intent.

Illicit intent, a crime set out in Articles 145-150 of the Brazilian Civil Code, applies to the case in question as the victims participated in the business because they believed it had another purpose; only the other party (the company) knew the real purpose of the contract, thus acting in bad faith. For this reason, the contract was tainted by what the Brazilian law refers to as a defective legal transaction, so it should be canceled and could not be used as evidence under any circumstances.

It is also worth noting that one of the premises of the loan for use contract is the act of delivering the good, i.e. the ownership of the

(...) the contract not only pretended to allow the families to stay in the area, but also created a timeframe for their arrival there, which would be 1988, when in fact the families had been there for many decades, without ever asking for the company’s permission or facing resistance for living in the area.

property must be transferred in favor of the person who will use the area. In this case, it was the ownership of the islands that should have been transferred, which never actually happened, as the families had been the owners of those islands for generations. These arguments were even included in the islanders’ defense, with the lawyers requiring the recognition of the false loan for use contract, but the court rejected this request in

its decision.

It should also be stressed that there were two annexes (namely: Annexes I and II) to the said contract describing the existence of areas used by the islanders for housing and cultivation purposes, thus contradicting the terms of the loan for use contract: while it stated that the company would lend part of the Constantine island to the fisherfolk beginning in 1988, its annexes prove that these communities were already there before that date, meaning that they were already the owners of the land.

Within the contract, “Area ‘A’” was defined

⁵² Of the eleven people who said they were aware of the document’s content, only three knew how to write, and it seemed more like they were “drawing” their own names; the other eight individuals gave their consent by inking their fingerprint on the document.



MAN MENDING FISHING NET – FORMER RESIDENT OF THE ISLANDS, HE NOW LIVES IN THE OUTSKIRTS OF THE CITY, AFTER SUFFERING A DEATH THREAT AND BEING EXPELLED FROM THE ISLANDS OF SIRINHAÉM BY THE COMPANY WORKERS. EVEN THOUGH NOW DISTANT FROM THE MANGROVE, HE KEEPS HIS FISHING ACTIVITIES. PHOTO: CPT NE 2

as that “located around the housing and utility improvements made in that area,” which were made by the islanders, not by Trapiche – an information that the company intentionally omits. It also describes “Area ‘B’” as an area without “any house or building of any kind, except for small subsistence crops – none of which permanent – cultivated by the LESSEE, as set out in Annex I hereto.” In this case, the company itself admits that the islanders had already been growing crops and making the area productive. Finally, Annex II provides a list of products “originating from subsistence crops grown by the islanders in area ‘B,’ listed in Annex II hereto,” which were to be removed at the end of the ten-year period of the supposedly agreed-upon loan for use contract⁵³.

Thus, in 1998, after the expiration of the period stipulated in the loan for use agreement, the families were once again pressured to leave the islands, this time through a notice sent by the company indicating that the period of stay provided for in the contract was over.

Tainted by a defect of intent, the loan for use agreement was also used as legal grounds to support the repossession proceedings started by the plant against some of the residents. It was even extended to families who lived on the same island but had not signed it, as out of the seven lawsuits filed based on the loan for use contract, five were against people who had not signed the document (and who did not even know about it). At the time, the judge of the district of Sirinhaém ruled in favor of the company in all legal proceedings, with two of them ending with a settlement.

In analyzing the above-mentioned elements, the loan for use agreement, which was purposely included in the lawsuit without the two mentioned Annexes, should have never been accepted as evidence that the property was owned by the company. Furthermore, the document mentioned that the annexes were an intrinsic part of the contract, meaning that the submitted contract was incomplete and the judge failed to determine the inclusion of the

⁵³ Public loan for use agreement included in repossession proceedings No. 3,082/98 and 3,088/98.

annexes to review the document in full. In addition, under Brazilian law, the contract would be voidable because it was secured by fraud.

In the criminal sphere, apart from tort of deceit, the facts described could constitute fraudulent larceny, a crime provided for in Article 171 of the Penal Code. The material object was fraud because, by misleading the fisherfolk, the company managed to convince them to sign the document. Thus, the company secured an unfair advantage to the detriment of the families, acting with the intent to deceive.

Add all of this to the fact that, in an attempt to persuade the court of the district of Sirinhaém, Trapiche falsely stated that it owned the property where the fisherfolk lived. It was actually a public waterfront land that had been leased to Trapiche, and not what the company claimed in the above-mentioned repossession complaints: “the petitioner Plant owns the Engenho Trapiche Velho sugar mill.”

In fact, the court of Sirinhaém could have denied the company the repossession on grounds that the families had been living in the area in a calm and peaceful way for many decades – requirements for granting legal ownership of federal lands to the families who had lived there for generations. In other words, the way they occupied the area would be enough to meet the requirements of what the Brazilian law calls adverse possession, which would recognize the islanders’ right to use and enjoy the lands that had been initially leased to the company. This would not have a negative effect on the Brazilian State regarding the ownership of the area, as the situation would remain the same, i.e. it would still be the owner of the land. The only change would be the replacement of the previous tenant (the plant), which no longer had the ownership of the land, with a new one: the fishing community that lived there. It is worth noting that the possibility of claiming

adverse possession over leased lands had already been recognized by the Federal Court in Pernambuco state⁵⁴ in 1995, i.e. years before the company started the repossession proceedings in 1998.

One can clearly see that, when provoked to intermediate the possession conflict through the repossession lawsuits filed by the company, the judiciary defended the company’s interests instead of protecting the families’ long-term ownership of the land. Its position becomes even more noticeable when we see that the decision ordering the eviction of the islanders was based on a fake loan for use contract, i.e. on an invalid and false document that, as already explained, did not reflect the actual will of the workers.

Moreover, the court agreed to expand the scope of the contract to include residents who had not signed the alleged loan for use agreement, under the pretext that it was a verbal agreement. In fact, the practice of fabricating loan for use agreements is common among mill owners and other major landowners in the Zona da Mata region in Pernambuco. Since it is a more informal type of con-

One can see how the legal system is aligned with a patrimonial approach, as its decisions systematically benefit the economically stronger party that owns alleged land titles, using false theories and facts to justify the granting of tenure protection to large power holders.

tract, as it does not need to be in written form (it can be formed orally), this tactic has been the most commonly used to support repossession lawsuits filed by large landowners against rural communities. Not to mention the fact that the evidence to prove the existence (or not) of the said contract may be testimonial and is generally the responsibility of the owner’s employees – since they are subordinate to and economically dependent on their employers, they do not challenge them, as was the case on the Sirinhaém islands.

As a result, the families that had actually owned the lands for generations and that should have been protected by the State were completely abandoned. One can see how the

54 Federal Regional Court of the 5th Region, Precedent 17. Available at: <https://www.trf5.jus.br/index.php?option=com_content&view=article&id=31&Itemid=150>.



SIRINHAÉM'S PERIPHERY HOUSES SQUEEZED OUT BY TRAPICHE'S SUGAR CANE MONOCULTURE.

PHOTO: CPT NE 2

legal system is aligned with a patrimonial approach, as its decisions systematically benefit the economically stronger party that owns alleged land titles, using false theories and facts to justify the granting of tenure protection to large power holders.

Also for the purpose of expelling the families, the company filed charges with the Public Prosecutor's Office against the fisherfolk for alleged environmental crimes on the islands. Thus, in parallel to the repossession proceedings and the proposed exit agreements, which will be detailed later, the company sought to press the Public Prosecutor's Office not only to evict the residents from the region, but also to convict them.

THE EXIT AGREEMENTS IMPOSED ON THE FISHERFOLK

In a context of serious violations of international and constitutionally protected rights, the families were being forced to accept "agreements" imposed by the company for them to leave the islands, without in fact having had any choice in the matter. Some of these "agree-

ments" were even struck during the repossession proceedings, when they were offered as a way of bringing the case to a close more quickly, and would supposedly be more beneficial for them.

Some of these families that signed these so-called "agreements" received, as compensation, building materials or a precarious house in districts on the outskirts of Sirinhaém. While they did receive these goods as compensation, which the company always called "donations," it must be stressed that the legally due compensation was never assessed, as no audits were performed to determine the value of the houses on the islands, the crops, the fruit trees, the flour mills, among other assets.

In fact, it is worth emphasizing that those who went through the repossession process and stuck it out to the end without reaching an agreement were judged by the legal system to have made their claims in bad faith, and consequently did not even have the right to keep or receive compensation for the improvements made on the islands, not even the produce of the crops and the fruit trees.

The company also attempted to evict the families from the area by claiming that the



CRACKED WALL IN A HOUSE GIVEN BY TRAPICHE MILL TO A FORMER RESIDENT OF THE ISLANDS OF SIRINHAÉM. THE COMPANY PROMISED TO DELIVER ADEQUATE HOUSES BUT DWELLERS SUFFER FROM COLLAPSE RISK.

PHOTO: CPT NE 2

houses to be “donated” would represent an improvement in their lives, saying on several occasions that

[The] families live the mangrove in complete isolation, without any structure, and their displacement would represent a chance for them to no longer be invaders and to own a dry land, far from the floods, by the roadside and with the possibility of electrification. It is short-termism and lack of knowledge that lead the current inhabitants to carry out suicidal exploitation of the environment⁵⁵.

A REDETV report broadcast on August 28,

2006, shows a very different situation, affirming that “the population evicted from the island now lives in slums”⁵⁶ and that the houses “donated” to some of the residents are of highly questionable quality, with residents running the risk of landslides.

Another mistake made by the legal system was its failure to consider those peoples’ way of life, accepting Trapiche’s claim that the agreements proposed by the company “would give them better living conditions.”⁵⁷ The judge’s sentence said: “the decision would not be fair if it let itself be led by the upheaval, [...] bolstering misery, and enabled the respondents

55 Official letter sent by Usina Trapiche on November 4, 1988, to the Federal Prosecutor’s Office and included in Administrative Proceedings No. 0816.001033/98-12, pp. 19-20.

56 RCE CANAMANGUE report made by REDETV! and broadcast on August 28, 2006. Available at: <<https://www.youtube.com/watch?v=16VvDsce3WM&feature=youtu.be>>.

57 Court decision No. 143/2001, included in the repossession proceedings against the islanders, Nos. 3,125/98, 3,126/98, 3,127/98, 3,128/98, 3,131/98, p. 10.

[fisherfolk] to remain on the above-mentioned Constantinos Island, where they would be condemned to continue fighting to live in sub-human condition.⁵⁸”

These families’ traditional way of life cannot be appraised from the viewpoint that they are not part of the community, as the testimonies show that, even without electricity and supposedly isolated by the river, the families describe the area as an excellent place to live, a “place of plenty.” From their point of view, it is much better to live without electricity, but on their community’s traditional land where they have developed their own culture.

Those that accepted the agreements received a house on a hillside with appalling ventilation and accessibility. They also did not receive the documentation proving ownership, even though this was included in the agreement signed with Usina⁵⁹. Examples include the cases of Djanete Cristina dos Santos, “who did not receive the real estate deed from the mill,”⁶⁰ and Dona Maria, who claimed that “it was Usina [who gave us the house], but we don’t have the house documents. They keep on stalling us. They say the documents are at the Town Hall. When we go there, they say they’re not there, that they don’t know where they are, and so on it goes.”

This is to say that, to this day, the people do not even know if they actually own the house, as they have never received the title deeds duly registered at a notary office. And even now, they fear that once the person who was given the house dies, their children will not be able to stay there.

One of the fishermen and former residents of the Sirinhaém islands, who did not want to be

identified for fear of reprisals by the company, tells us how his exit was “negotiated”:

A man arrived and said it would be better if I left because the sun might set and never rise, I could see that sunset alive and not the dawn, see? So he said it would be better to leave, same for her [Evânia] and Moacir. I only know that he came, I knew nothing about this house. They called me to the mill. When we got to the mill, he was there, Zé da Bala [Usina henchman] was there, the watchmen, Brother Luciano, her too. I only know that the deal was done: the house, a cooker and five hundred reals in cash. So I was like, surprised. I was stunned. Surrounded by these men, the boss there said it was done, I said: ‘OK.’ It was a done deal, what else could I do?

These families’ traditional way of life cannot be appraised from the viewpoint that they are not part of the community, as the testimonies show that, even without electricity and supposedly isolated by the river, the families describe the area as an excellent place to live, a “place of plenty.”

According to the fisherman’s statement, Usina was already waiting for them with a prepared “agreement,” which was presented in the presence of several of the company’s henchmen, leaving no opportunity for disagreement. When asked if he had liked the agreement he was obliged to accept, the fisherman commented:

I mean, it wasn’t good, because I left the place I was in. There, I didn’t have to buy anything: I didn’t buy crabs; I didn’t buy fish, I caught them to sell. And here, if I want any of this, I have to buy it. This week, for example, to eat fish, I had to buy it. And it’s the same every week: I have to buy fish to eat. And [there] we planted [crops].

Of the 19 former residents interviewed for this publication, when asked if their families received any compensation as a result of the forced evictions, fourteen said they were given small houses in districts on the outskirts of

58 Court decision No. 143/2001, p. 11.

59 Usina formally agreed that it would hand over the title deeds for the houses provided to the islanders in agreements filed in court. It also stated in an official letter sent to the Federal Prosecutor’s Office on October 24, 2005, that “any transactions that may be signed by the families will be duly registered at a notary office.” This is included in Administrative Proceedings No. 0816.001033/98-12 (pp. 423-424) carried out by the Federal Prosecutor’s Office.

60 Testimony given by Maria Nasareth dos Santos to the Prosecutor’s Office for Citizenship Defense in the State Capital – Promotion of the Social Function of Rural Property, on May 7, 2007.



FORMER RESIDENT OF THE ISLANDS OF SIRINHAÉM AND HER GRAND DAUGHTER, IN HER SIRINHAÉM'S PERIPHERY HOUSE.

PHOTO: CPT NE 2

Sirinhaém, two received building materials, and three received nothing.

What happened there was the forced eviction of the islanders disguised as voluntary agreements. Forced eviction is understood as actions or omissions that involve coercion or displacement of people, groups or communities against their will from their homes, land or shared property that they occupy or depend on. Therefore, an eviction is considered forced when the action or omission of either the executive or judicial branch of the Brazilian State disrespects international human rights standards and the principles and rights guaranteed by the Federal Constitution, hence it is considered illegal and unconstitutional⁶¹.

As is the rule in forced evictions in Brazil,

some of the residents were obliged to leave the territory on account of the rulings in the repossession proceedings brought by the company. It is worth stressing that these cases were closed at different times. Two of the seven cases were settled with an agreement. In some cases, the judge's decision was appealed. In others, the fisherfolk gave up without filing an appeal against the sentence.

Thus, the ruling issued by the Sirinhaém Court failed to observe the provisions enshrined in the Brazilian Federal Constitution, Civil Code and Civil Procedure Code. It also disregarded the international and constitutional law that guarantees the right to housing and all the other human rights applicable in the context of the case, perpetuating the view

⁶¹ Brazilian Platform against Forced Eviction, February 14, 2006. Available at: <<http://terradedireitos.org.br/2006/02/14/plataforma-brasileira-contra-despejos-forcados>>.



that the right to property is absolute.

The judiciary's lack of attention can also be seen in its failure to take the collective nature of the conflict and the traditional nature of the community into consideration. Although only one sentence was imposed for all those who did not come to an agreement, since they were judged together, the cases were analyzed out of context. This fact is further corroborated by the judge's refusal to call the Public Prosecutor's Office and have it prepare a report – as petitioned by the fishermen in their legal defense. This can also be seen in the decision issued by a Court of Appeal in the repossession proceedings against the fisherwoman Maria Nasareth, where the appellate judge stated: “since this case involves only private interests, there is no

reason to consider it essential to call the Public Prosecutor's Office.”⁶²

It is also worth noting the fact that the Public Prosecutor's Office, which is defined in the Brazilian Federal Constitution as the defender of society's inalienable interests, could have spontaneously intervened in the proceedings when it became aware of its existence, but did not do so.

The UN Economic, Social and Cultural Rights Committee has considered forced evictions as incompatible with the right to adequate housing – which has been recognized as a human right since the adoption of the Universal Declaration of Human Rights in 1948 – and as one of the requirements of the International Covenant on Economic, Social

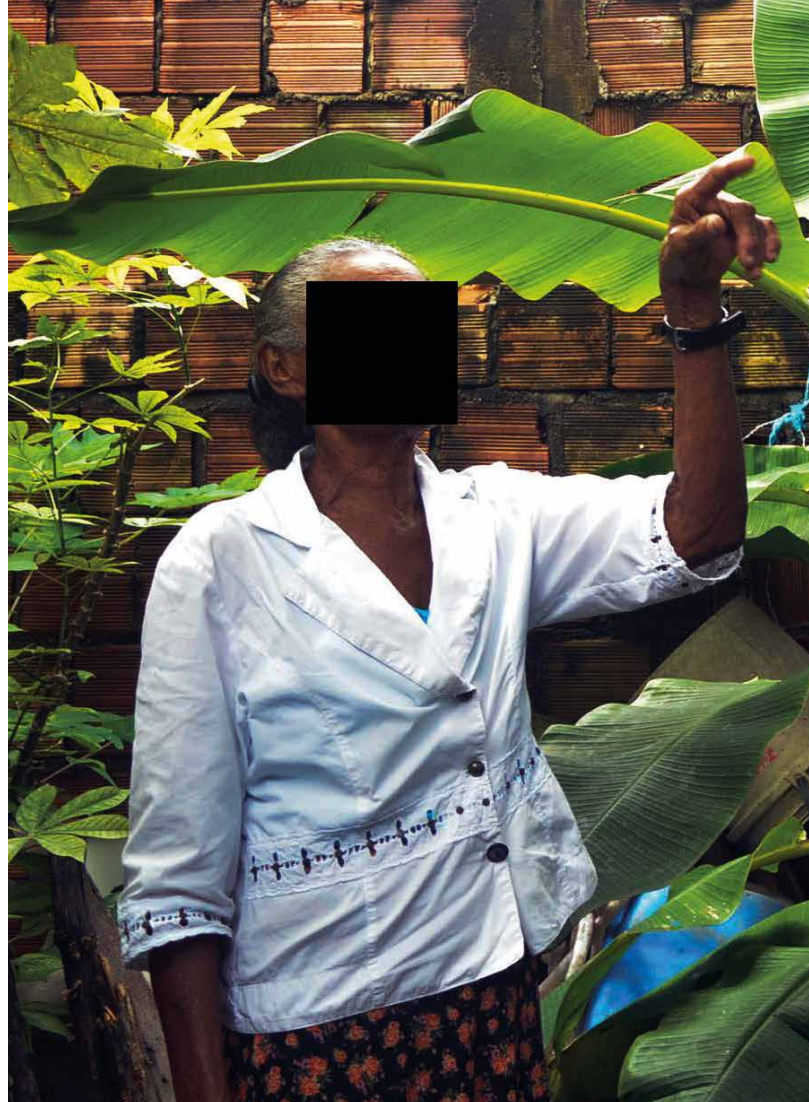
⁶² Civil Appeal Judgment No. 76877-6, repossession proceedings filed by Usina Trapiche against the fisherwoman Maria Nasareth dos Santos.

and Cultural Rights (ICESCR), enacted in Brazil through Decree No. 591 of 1992. They also violate General Comment 7⁶³, adopted by ICESCR, particularly its Article 11, which deals with the right to an adequate standard of living. Article 16 states that “evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights” and that “the State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions,” which was not the case for the traditional communities of the Sirinhaém islands.

International law imposes legal obligations on states that have ratified ICESCR and sets out the rights of people threatened with eviction, as is the case in Brazil, which in 2000 included housing as a fundamental social right in Article 6 of the Federal Constitution and also expressly defined that property must observe its social function (Articles 5, XXIII, 182, 186 and 170, III).

In this regard, Brazil is obliged to take all appropriate measures to prevent forced evictions and also to implement policies and programs designed to guarantee security of tenure and introduce participatory procedures for the affected populations to be consulted. Moreover, compensation policies must be widely adopted and always include the participation of the affected community in the event of necessary displacements, which did not happen in the case in question.

One way of complying with the above-mentioned international agreements and national standards would be for the Federal Heritage Department (SPU), which is the federal agency responsible for managing the federal government’s real estate portfolio, not to have renewed the concession of the island area to the company, granting it instead to the families who lived there. In this way, the islanders’ right to remain on the islands would have been consolidated, as the SPU is responsible for inspecting the tenant’s use of the property regarding the fulfillment of its social and environmental function and can cancel the tenure contract in



the event of non-compliance with the terms of the contract.

It should be stressed that for the tenure contract to remain in force, the tenant must routinely comply with the legal regulations, keep up-to-date with fee payments, not abandon the area, and use the land in an adequate manner, which involves adopting non-violence and abstaining from causing environmental damage.

The company has failed to comply with the terms of the long-term tenure contract by constantly causing environmental harm and using illegal methods against the traditional community, including intimidation, threats, and manipulating the local police force to criminalize the families, etc. This alone should have been enough for the tenure contract to be revoked. It is worth stressing that before submitting a petition to cancel the long-term tenure contract granted to Usina Trapiçe, the CPP and the Z-6 Fishing Community in Barra de Sirinhaém

63 Document available at: <http://pfdc.pgr.mpf.mp.br/atuacao-e-conteudos-de-apoio/legislacao/reforma-agraria/ComentarioGeral7_DESC>. Accessed on May 15, 2016.



FORMER RESIDENT OF THE ISLANDS IN HER BACKYARD, IN SIRINHAÉM'S PERIPHERY. EVEN IN A LIMITED SPACE, SHE TRIES TO CULTIVATE FRUIT TREES. PHOTO: CPT NE 2

had already petitioned for the land to be leased to the artisanal fisherfolk and gatherers who used the territory, but this petition was not considered.

It was only in 2007 – after several complaints from civil society and after IBAMA showed interest in setting up an Extractive Reserve (RESEX) in the area and INCRA revealed plans to create a rural workers' settlement there – that the SPU in Pernambuco rejected the request to renew the long-term tenure contract granted to Usina Trapiche. This decision was based on the interest in setting the area aside for public service⁶⁴.

With respect to this cancellation, the then Chief of the SPU in Pernambuco, Paulo Ferrari, stated the following in an interview with CPT:

Since 2004, the SPU has changed the focus of its federal asset management. In the past [...], it used to focus on collecting revenue and not on how

properties were used. In 2004, the focus shifted from revenue to vocational allocation and fulfillment of the area's social and environmental function. [...] We need to use the area properly. During my time in office, I have drastically reduced the concession of long-term tenure contracts. Who asks for a tenure contract? Those who can hire a lawyer, build a building etc. In other words, these are the people who come to the SPU to secure a long-term tenure contract. It's not the poor; they don't even know these things exist.

In fact, by deciding not to renew Usina Trapiche's tenure contract in 2007, SPU in Pernambuco played an important role in the attempt to find a fair resolution for the conflict. At the Court of Appeal, however, the SPU in Brasília defended the economic interests of Usina Trapiche, accepting the company's appeal against the sentence handed down in

64 Based on Decree Law No. 9,760, of 1946, Articles 120 and 103, paragraph V.



TRAPICHE MILL, SIRINHAÉM, PERNAMBUCO, 2015. PHOTO: CPT NE 2

Pernambuco. The agency overturned the decision taken by the SPU in Pernambuco and maintained the tenure contract with the company. This was very much due to the lobbying carried out by the then Minister of Institutional Relations, José Múcio Monteiro, a mill owner from Pernambuco who always defended his industry's interests.

Law No. 9,636/98 clearly indicates that priority should be given to those who occupied the area first, but the SPU once again ignored the existence of the fishing families who had lived off the traditional use of natural resources for generations. These families were the legitimate inhabitants of the territory, not the company. The islands of the Sirinhaém river estuary were never occupied by Usina, as only the families living on the islands occupied the area.

The only argument presented by the company to justify the eviction of the families from the islands was that, by doing this, they would be “preserving the environment.” The company had even gone as far as to file charges with the

Public Prosecutor's Office against the fisherfolk, claiming that they were committing an environmental crime, but the inquiry that was set up to investigate the situation was shelved, showing that not only were they not committing any crimes, but that, in the words of the local prosecutor who closed the case, “the company wanted to use the Public Prosecutor's Office in such a way that it would take a legal action to remove the fisherfolk from the area in order to meet the company's private interests.”

At the same time, according to information provided by the SPU in Pernambuco, Usina Trapiche stopped complying with its annual financial obligations that were necessary for maintaining the tenure contract for the following years. This fact alone would be sufficient for the existing tenure contract to expire automatically.

Article 101 of Decree Law No. 9,760/46, which regulates the management of federal government properties, highlights that:

Lands leased by the federal government are sub-

65 Promoção de arquivamento do Inquérito Civil Público nº 001/98 do Ministério Público do Estado de Pernambuco, Promotoria de Justiça da Comarca de Sirinhaém, presente nos autos do processo administrativo nº 0816.001033/98-12 do Ministério Público Federal, fls. 223 a 227.

ject to a fee of 0.6% (six tenths of one percent) of the value of the respective fee simple, which will be updated annually.

Sole paragraph. Non-payment of this fee for three consecutive years, or four non-consecutive years, will result in the expiry of the long-term tenure contract.

Therefore, on top of the legal provision to cancel the effects of the tenure contract due to its fundamental flaws (since it disregarded the existence of the traditional community) and tenure defects (in view of the social and environmental violations perpetrated by the company over the years), the deeds should also have been automatically cancelled due to non-payment of the annual fees.

SPU in Brasília based its decision to overturn the sentence handed down by the SPU in Pernambuco on two main facts. Firstly, it claimed that the claims of environmental violations had not been proven in any administrative or criminal action taken against the company. And, secondly, it alleged that neither ICMBio nor INCRA had any interest in triggering the

cancellation of the contract. It failed to consider the ample evidence of environmental violations committed by Usina Trapiche in the administrative charges filed by environmental agencies and in other administrative rulings, not to mention the formal charges brought by the Federal Prosecutor's Office that gave rise to legal proceedings such as Public Civil Action No. 3,796/2001, which was heard by the Sirinhaém courts. Likewise, the case did not consider the official letters sent by IBAMA in which it emphatically expressed its interest in the area for the creation of a protected area and especially its request for the land to be set aside for this purpose.

After the decision taken by the higher court in Brasília, the SPU failed to apply a fair solution in favor of the former residents and users. As a result, the agency bears a large part of the responsibility for the dispossession of the traditional community, for the continued social conflicts, and for the environmental impacts that can be seen even today in the area.

Another case that is similar to Sirinhaém (as it involves a conflict between a traditional com-

THERE IS NOT ENOUGH ROOM IN THIS FORMER ISLANDS RESIDENT'S HOUSE TO CULTIVATE FRUIT TREES AND RAISE SMALL ANIMALS, LIKE SHE USED TO DO IN OTHER TIMES. PHOTO: CPT NE 2



munity and a company in the sugar and ethanol industry on federal government lands), but which was resolved in a different way, is that of the community located in the “Zé de Ipojuca” farm in Engenho Salgado in the municipality of Ipojuca (neighboring Sirinhaém), which had been leased to the Usina Salgado mill in 1921. In 2007, the SPU cancelled the company’s oc-

cupancy license as a result of reports of violence and crimes committed against the community and the environment, apart from debts owed to the federal government. Later, the SPU and INCRA signed an agreement that granted INCRA the right to use the area to regularize the land and create a settlement for the families of the farmers and fisherfolk who lived there⁶⁶.

Ironically, Usina Trapiche has recently started legal proceedings⁶⁷ to obtain a declaration that it is not obliged to pay the annual fee, on the grounds that there are no public waterfront lands in the Anjo, Trapiche and Sibiró mills because, according to Usina Trapiche, all those lands belong to the company, and not the government. The company obtained a favorable ruling in the trial court, based on the work carried out by an expert who supported the company’s claim that the SPU in Pernambuco had used an inappropriate method to mark out the boundaries of the public waterfront lands. However, the federal government appealed against the ruling and obtained a partially modified verdict, as the Appellate Court confirmed the company’s right not to pay the fee, but did not recognize it as the owner of the property – its decision was based solely on the grounds that the waterfront lands had not been demarcated in accordance with due legal process, as the company had not been specifically notified to participate in the demarcation act. Therefore, the Court’s decision did not recognize that the lands belonged to Usina Trapiche (like it claimed) and even pointed out technical flaws in the expert’s work, which had indicated that the mangrove areas were not public waterfront land. The ruling only recognized a formal defect in the land demarcation process and, hence, recommended the SPU in Pernambuco to carry out a new demarcation process, this time specifically notifying the company to take part for the purpose of respecting the *principles of hearing the other side (audi alteram partem), full defense, and due legal process*. The SPU in Pernambuco has already begun the new demarcation process (No. 04962.007279/2014-49) and is currently waiting for the issuance of an Administrative Decree to establish the Demarcation Committee.

THE DESTRUCTION OF THE ISLANDERS’ HOUSES AND CROPS

O conflito nas Ilhas de Sirinhaém foi marcado The conflict on the Sirinhaém islands was marked by high levels of violence. For several times, the fisherfolk received verbal threats and had their plantations destroyed and their houses knocked down and set on fire. These actions showed no regard for fundamental rights, especially the rights to adequate housing, an adequate standard of living, public safety, and

the right not to be forcibly evicted, in accordance with international standards.

Furthermore, if properly investigated, these actions could, under Brazilian law, constitute the crimes of threat, duress coercion, aggravated damages, flammable substances, considerable damage to the victim, and arbitrary exercise of one’s reasons, as set out in the Penal Code. There was also a more serious case, which can be classified as attempted murder.

The evictions were often accompanied by serious acts of violence, with the victims arbi-

66 Secretaria do Patrimônio da União cede área para o Incra em Pernambuco. INCRA. Available at: <<http://www.incra.gov.br/recife-secretaria-de-partimonio-cede-area-do-engenho-salgado-para-o-incra>>.

67 Legal proceedings No. 0009350-50.2009.4.05.8300, assigned to the 10th Federal Court of the Judiciary Section of Pernambuco.

trarily detained, imprisoned or threatened with death. As always, the Sirinhaém case reveals a scenario involving the persecution of community leaders and social movements, threats, acts of violence, and the loss of the affected peoples' way of life.

The verbal reports below describe some of the human rights violations suffered by the islanders:

They destroyed [my house], which was also made of rammed earth. It was made more of coconut leaves... they knocked it all down. They set it on fire and knocked it all down. [I was left with] nothing. I lost two wardrobes [...], I lost a double bed. There was nothing left. [They destroyed] everything, there was nobody left. (Josefa dos Reis, fisherwoman and former resident of the islands in the Sirinhaém river in Pernambuco).

One day, when nobody was expecting it, the men came out of nowhere with machines and flattened everything, they destroyed everything. They gave the people nothing, the people left with nothing, I don't know where they went. Each followed their own destiny. [...] They knocked down the houses, the small plantations that we had, everything. They tossed everything into the mangrove. (Rosa da Silva, fisherwoman and former resident of the islands in the Sirinhaém river in Pernambuco).

My wife lived on the islands, my wife's father lived on the islands. My wife was pregnant with my daughter and we came to my mother-in-law's house so my wife could rest. One day later, they set fire to our house there on the islands. They burnt documents, they burnt everything. My wife gave birth on Thursday. On Saturday, a boy who lives on the Rapozinha island saw us at the [health] center and said: "hey, your house has gone, it's all ashes. They set it on fire." (Samuel Barbosa, a former fisherman and resident of the islands who now works as a street cleaner).

As can be seen, one of the strategies adopted by Usina Trapiche was to take advantage of

times when residents were away to destroy their houses. They did not even go to the trouble of taking the furniture out, which clearly constitutes the crime of aggravated damage, as described in Article 163, sole paragraph, clauses I, II and IV of the Brazilian Penal Code. Those cases where fire was used to destroy things constitute the crime of arson, as described in Article 250; and the cases where tractors and other methods were used to knock down the houses and destroy the plantations constitute the crime of destruction of property – Article 256 of the Penal Code. These crimes were most often accompanied by threats and extortion and always in addition to criminal damage.

Because of these and many other similar cases, the local prosecutor in Sirinhaém asked the police to investigate the situation through public civil investigation No. 001/98. In November 1998, the local police produced a report that included a number of statements from residents and Usina's employees about the destruction and threats. This led them to charge six company employees with the crime of causing damage, as set out in Article 163 of the Penal Code, aggravated by the use of flammable substances, accompanied by acts of violence and threats, committed against federal property and causing considerable damage to the victim⁶⁸.

Hence, based on the police's conclusion that the above-mentioned crimes were carried out by the company's employees, the prosecutor brought charges against them. But the case lapsed and was closed without any sentence being passed, even though the reasons behind the delays in hearing the case were not very clear because the case records could not be found at the Civil Court of Sirinhaém.

It is clear from the reports above that the right of the families in the traditional community of Sirinhaém to adequate housing was violated – a violation that affected all the islanders. They all had their homes destroyed and were evicted from them by violent means.

The right to adequate housing is not limited to the physical structure of a roof and four walls, but also to the right to have access to a

68 Report issued by the Sirinhaém Municipal Police Station on November 20, 1998, included in Administrative Proceedings No. 0816.001033/98-12 (pp. 95-100) carried out by the Federal Prosecutor's Office

safe place to live in peace, with dignity and health. For this purpose, adequate housing must include, among other things, security of tenure.

In this regard, the right to housing is in fact the right to a real home, with features that ensure both the dignity and the mental and physical health of its residents. Therefore, the following are the basic requirements for decent housing:

(1) **habitability**: adequate size and number of rooms and protection against the cold, heat and adverse weather conditions;

(2) **affordability**: the costs for buying, renting or maintaining a house must not affect the exercise of other fundamental rights;

(3) **availability of public services and facilities**: connection to water supply, basic sanitation, gas, electricity, garbage collection, and public transportation systems and proximity to schools, hospitals, and leisure areas;

(4) **adequate location**: located in a place that offers economic, cultural and social development opportunities, such as job vacancies and alternative livelihoods;

(5) **prioritization of vulnerable groups**: priority assistance to the most vulnerable sectors of the population, including women, children, people with disabilities, and victims of natural disasters;

(6) **cultural adequacy**: respect for cultural diversity and multiple community identities, both in terms of architecture and the choice of building materials; and

(7) **security of tenure**: living without fear of eviction or of undue and unexpected threats.

The displacement of families to a so-called “better” house did not comply with any of the above requirements. The violations of the right to housing described above are, therefore, an affront to the Constitution and to Brazil’s international commitment to secure this right.

During the actions to destroy the families’ houses, nobody took the trouble to check if

there was really no one at home. Luzia Almeida reports that she almost lost her daughter as a result of the company’s actions:

One day, during the March tide, I went to Pedro Pereira’s house, because I used to wash clothes there on the Porto Tijolo island. When I got there, at low tide, I washed the clothes. But it was too late for me to return to the Raposinha island. So Pedro said: “Luzia, don’t go back today. You and these boys on a bamboo raft, with a tide like this... No, don’t go, leave it till tomorrow.” So I stayed. The next day in the morning, Antônio’s boy João passed by and said:

- Ms. Luzia, if only you could see the state of your house, not even the foundations are left.

- What about my girl?!

- Selminha was saved because Marquinhos heard her screaming. He went there, broke down the door, went in and got her out.

The entire house caught fire. It burnt everything, everything, everything that I owned. It just didn’t burn the clothes I’d taken to be washed and my documents that I carry with me wherever I go. Who burnt them? We think it was Usina Trapiche, because a young man that works at the company said: “You’d better not sleep too deeply, because Usina has ordered all the houses on the island to be set on fire and the administrator is insisting on it.” (Luzia Almeida, fisherwoman and former resident of the Sirinhaém islands in Pernambuco state).

Another similar situation can be observed in the statement made by Maria José da Silva at the Sirinhaém police station in 1998. She said “that she ran with her four children out of her shack, which was in flames, shouting and asking for help, and that her neighbors came to her help and overcame the fire.”⁶⁹

These incidents can be classified as attempted first-degree murder by arson, as provided for in Article 121, paragraph 2, clause II, combined with Article 14, II of the Penal Code.

Even with the justification that nobody knew that there were people inside the houses at the moment they were burnt down, this risk existed.

These acts can therefore be considered as a

69 Report filed at the Sirinhaém Municipal Police Station on November 20, 1998, and included in Administrative Proceedings No. 0816.001033/98-12 (p. 96) carried out by the Federal Prosecutor’s Office.

serious affront to the right to physical integrity and life, the most fundamental of all recognized human rights, laid down in the Universal Declaration of Human Rights, the Pact of San José, Costa Rica, Articles 4 and 5, and other international agreements, and also highlighted in the introduction of Article 5 of the Brazilian Federal Constitution.

Another serious incident took place a few years later, involving the fisherwoman Maria das Dores dos Santos, when she and her sister were the only people remaining on the island. On June 28, 2006, a Usina Trapiche employee called Evânia Ferreira da Silva, whose role will be detailed below, came to the home of Maria das Dores' mother to inform her that she would destroy her daughter's house.

On the following day, the company's henchmen carried through with the threat and destroyed the house. She had gone to the city and was waiting to give birth to her child. With the destruction of her home and the persistent threats, the fisherwoman went to the Civil Police Station in Sirinhaém together with a lawyer from NGO Terra de Direitos and members of CPT to file a police report (No. 228/2006⁷⁰) about the incident.

Later that year, on July 12, Maria das Dores' house, which was being rebuilt, was once destroyed in retaliation for her filing the complaint at the police report. The victim filed a new police report (No. 232/2006) on the same day as the incident. These criminal facts were the object of Police Investigation No. 054/2006. With several serious flaws during the process, including the failure to take all appropriate steps, the investigation tendentiously concluded with a decision not to pursue the charges made.

As a result of these acts of violence, Maria

das Dores, advised by lawyers from Terra de Direitos and the Pastoral Land Commission, filed a lawsuit against Evânia Ferreira da Silva and against three other Usina Trapiche employees for the crime of aggravated damage brought about for selfish reasons and causing considerable damage to the victim (Article 167, paragraph IV, of the Penal Code)⁷¹. Ten years later, the case is still being heard by the District Court in Sirinhaém and no sentence has been passed. The case is just waiting to be shelved because it has expired, as have other cases filed against the company.

This same fisherwoman even had a miscarriage in another incident of intimidation and destruction when she was six months pregnant, and this pregnancy was apparent and easy to see.

The mill owners told a lot of people that we had nothing, and that the islands didn't belong to us, that they belonged to Usina; and they took them. [...]. I even lost a child, but I didn't give up. I was six months pregnant and I lost it. (Maria das Dores dos Santos, former resident of the islands).

This is a very serious crime that the Brazilian Penal Code classifies as malicious intent. In other

words, while they knew that Maria das Dores was heavily pregnant, they threatened her and knocked down her house with her possessions inside, thus assuming the risk of causing any damage to the mother or her baby, including a miscarriage, as indeed happened. This constitutes the crime of willful abortion brought on by a third party, as described in Article 125 of the Penal Code.

Two statements taken from hearings in court cases that investigated facts linked to the local violence suffered by the fisherfolk confirm this miscarriage:

The entire house caught fire. It burnt everything, everything, everything that I owned. It just didn't burn the clothes I'd taken to be washed and my documents that I carry with me wherever I go. Who burnt them? We think it was Usina Trapiche, because a young man that works at the company said: "You'd better not sleep too deeply, because Usina has ordered all the houses on the island to be set on fire and the administrator is insisting on it."

70 TdD report, available at: <<http://terradedireitos.org.br/wp-content/uploads/2016/06/Sirinha%C3%A9m-dossi%C3%AA.pdf>> Accessed on November 5, 2015

71 Legal proceeding No. 0000020-70.2007.8.17.1400, processed through the District Court of Sirinhaém.

That eight years ago these same defendants had already destroyed the plaintiff's home, at which time the plaintiff had a miscarriage; That six months later, they destroyed her home again; That on this second occasion, the plaintiff was already living on the island; That she does not know if at the time of the event described in the complaint there were police officers present at the site, but on earlier occasions, police officers had been there. (Statement given by Djanete Cristina dos Santos, former resident of the island and mother of Maria das Dores dos Santos, at a hearing)⁷².

That he saw EVÂNIA and ASSIS [Usina Trapiche employees] arrive at the site with 5 other people, removing the canvasses and destroying the home and then burning everything; That at an earlier time, DAS DORES had suffered a miscarriage because of the other destructions caused by the same defendants; That the home had been destroyed four or five times; That they destroyed the house with everything that was in it. (Statement given by José Bernardino de Lima, former resident of the islands, at a hearing.

Even if the company claimed that it had been granted the right to remove the families from the area through legal actions⁷³, which would apply to only seven of the approximately 57 families, it could never have acted in the way that it did. This behavior constitutes the crime of arbitrary exercise of one's reasons, described in Article 345 of the Brazilian Penal Code, because it overrode the determinations of the judiciary power – the body legally charged with carrying out the evictions in the lawsuits that were favorable to Usina Trapiche.

Another aggravating circumstance in this context is that the police officers refused to file the incident reports on the crimes suffered

as requested by residents, so that steps could be taken that would prevent them from continuing⁷⁴. In this way, the police turned a blind eye on the violent acts, which makes them co-responsible for the incidents⁷⁵.

It should be noted that, according to the former residents of the islands, many of the intimidating and violent actions carried out by the company's employees took place in the presence of police officers, including officers from the Independent Environmental Policing Company (CIPOMA). There was, therefore, not only omission, but also an alliance between this state social control agency and the local economic power.

One case that is an exception to the rule, clearly due to the interference of the Public Prosecutor's Office, was the one that investigated and charged Usina employees in 1998⁷⁶, but, as has already been mentioned, the culprits were not convicted.

For a better illustration of the role of the police, the cases involving the fisherwomen Maria Nasareth and Maria das Dores could not be clearer. Both had their houses destroyed on several occasions by the company's employees and tried every time to report it to the police. In 2006, after being turned down on countless occasions by the police, they only managed to file an incident report when they were accompanied by lawyers from NGO Terra de Direitos. This was when Police Investigation (IPL) No. 054/2006 was initiated. The goal of this investigation was to investigate the crimes of arson⁷⁷ and the responsibility of the following Usina Trapiche employees: Severino Manoel da Silva, Evânia Freire dos Santos, Francisco Teixeira de Moura, and Hélio de Almeida Bahia.

The investigation proceedings were, however, tainted by arbitrary actions that called

72 Evidentiary hearing in legal proceedings No. 0000020-70.2007.8.17.1400, which dealt with the criminal damage committed by Usina Trapiche when it destroyed Maria das Dores' house.

73 Repossession proceedings Nos. 3,082/98, 3,088/98, 3,125/98, 3,126/98, 3,127/98, 3,128/98, and 3,131/98.

74 Information included in the "Sirinhaém Islands" Progress Report, prepared by Terra de Direitos and the Pastoral Land Commission in 2007.

75 It is worth stressing that the facts mentioned in this chapter are not related to the poor working conditions that are presently found at the police station, because they took place before the current situation where the police station has fallen into disrepair.

76 Legal proceeding No. 17-96.1999.8.17.1400, which progressed through the Sirinhaém courts through to 2010.

77 Brazilian Penal Code, Article 250, Introduction and Paragraph I, Clause II, Item a. "Article 250 – Causing a fire, threatening the life, physical integrity or property of others: Penalty – imprisonment, from three to six years, and fine. Paragraph I - The penalties are increased by a third: [...] II – if the fire is: a) in a house that is inhabited or intended for inhabitation; [...]."

the credibility of the police work into question. According to reports, the victims were harassed by the police officers involved in the investigations, who even treated them as if they had already been convicted⁷⁸. On top of this revictimization, none of the statements given by the witnesses proposed by the victims were taken into consideration in the preparation of the Conclusive Report, without any reason whatsoever: only the arguments presented by the defense were considered⁷⁹. Furthermore, in the Conclusive Report, instead of writing about the object of the investigation, the chief of police shifted the focus of the report to make insinuations against the human rights organizations that were advising the fisherwomen, as can be seen in the following extract:

Reading between the lines of the investigation, rumor has it that the NGOs linked to land movements, especially in this police district, have an interest in the families returning to the Sirinhaém islands that they left of their own free will, as can clearly be seen in the copies of the documents included in the case records, and continue to campaign to keep the sisters on Constantino [Island]; by looking at it from this angle, a question comes up: what interest do the above-mentioned organizations have in defending the rural workers' continuation in that mangrove area, an environment that is completely unsuited to human survival and precarious?⁸⁰

One can clearly see the intention to shift the focus from the real object of the investigation, demonstrating that this police report is biased. The police work not only avoided investigating the Usina employees' criminal activities, but also raised groundless suspicions about the victims and the organizations that assisted them.

It is therefore clear that the repressive state apparatus was used by the economic power in the region to criminalize the traditional population of those mangroves. Thus, this state apparatus played an important role in dispossessing the islanders, as it marginalized, terrified and prevented them from remaining in the fishing territory where they had settled.



RAMP THAT GIVES ACCESS TO THE HOUSES OF SOME FORMER RESIDENTS OF THE ISLANDS OF SIRINHAÉM.

PHOTO: CPT NE 2

The Public Prosecutor's Office did not take any actions to investigate the above-mentioned arbitrary acts and abuses committed by the police. The agency, which is responsible, among other things, to exercise external control of police activities, did nothing, thereby contributing to that situation of human rights violations.

Throughout the process of expelling the families from the area, the company's main strategy was to handle each case individually, moving from family to family in order to weaken any coordinated action by the residents. They initially pressed the residents who were most afraid of their threats or who put up

⁷⁸ "Sirinhaém Islands" Progress Report, prepared by Terra de Direitos and the Pastoral Land Commission. Recife, 2007, p. 25.

⁷⁹ *Ibidem*, p. 28.

⁸⁰ *Ibidem*, p. 29.



SIRINHAÉM'S PERIPHERY, PERNAMBUCO, 2015. PHOTO: CPT NE 2

the least resistance, as they would be the easiest to convince to reach an agreement. They left those who were most determined to remain until last. Their intention was to leave those last residents on their own, so it would be easier to compel them to leave. These are the people who suffered the greatest rights violations.

Even though there was a residents' association in the area and the community had their own collective organization (because it was a traditional fishing community, although many people were not even aware of the meaning of the term), at no time was any attempt made to dialog with the community; they never tried to hear what the community, as a whole, had to say.

Decree No. 6,040 of 2007, which defines the concept of a traditional community, includes the guarantee and protection of traditional territories as one of its specific objectives (Article 3, I). Meanwhile, International Labor Organization's (ILO) Convention No.169, ratified by Decree No. 5,051 of 2004, lays down rules for guaranteeing the autonomy of these peoples as well

as the legal and political legitimacy of public and private projects (OLIVEIRA, 2014), taking their impacts on traditional communities into consideration.

In the Sirinhaém case, it is clear that neither Decree No. 6,040 nor ILO's Convention No.169 have been respected. This international Convention states that peoples will not be removed from the lands that they occupy and, where such act is considered necessary as an exceptional measure, it can only take place with their informed consent and *with free concession of lands*. Furthermore, in the event that the community does not grant its consent, the people can only be removed after the conclusion of all appropriate procedures, including public inquiries when appropriate, in which the interested peoples must have the opportunity to be effectively represented – which never happened.

Should the relocation be considered necessary, the peoples must be provided with lands of quality and legal status at least equal to that of the lands previously occupied by them and

suitable to provide for their needs. The same article also establishes that the community must be fully compensated for any loss or injury resulting from their relocation.

In the Sirinhaém case, the existence of any “exceptional measure,” as required by ILO’s Convention No.169 as a basis for the eviction of traditional communities from their territory, was never discussed. It was based only on the company’s supposed ownership of the area and its specific wish to expand its sugarcane plantations.

Moreover, the affected community’s consent, which is also required by law, was disguised as invalid loan for use contracts, which were imposed on illiterate, unadvised peoples. This consent, in fact, never existed. What the islanders went through was actually a violation of all provisions on the right to land set out in international agreements. The real need for removing them from their territory was not discussed; no prior consent was given; no prior consultations were held with the community; the evicted families were not resettled or rehoused in a place where they could maintain their organization and traditional way of life; no effort was made to design public policies better suited to their real situation based on dialog between different cultures; and they were not even given the right to choose the type of compensation that they would like to receive – which in fact never came. Finally, the families were not compensated for any of the countless material and moral damages that they suffered during the drawn-out, painful expulsion and resistance period.

Unfortunately, compared to other Latin

American countries such as Bolivia, Chile, Colombia, Guatemala and Peru, Brazil has lagged seriously behind in regulating prior consultation (FUNDACIÓN PARA EL DEBIDO PROCESO, 2015), making it almost impossible to use this instrument. In fact, very few of the traditional communities in Brazil know anything about this subject or have even heard of it, as was the case of the people who lived alongside the Sirinhaém river.

The real need for removing them from their territory was not discussed; no prior consent was given; no prior consultations were held with the community; the evicted families were not resettled or rehoused in a place where they could maintain their organization and traditional way of life; no effort was made to design public policies better suited to their real situation based on dialog between different cultures; and they were not even given the right to choose the type of compensation that they would like to receive – which in fact never came. Finally, the families were not compensated for any of the countless material and moral damages that they suffered during the drawn-out, painful expulsion and resistance period.

PRESENCE OF ARMED SECURITY FROM USINA TRAPICHE AND DEATH THREATS

Many of the systematic violent actions by henchmen and other employees hired by the company to terrorize the inhabitants of the islands were perpetrated in the presence of firearms, according to the reports presented below.

Weapon carrying licenses are restricted in Brazil to professionals engaged in high-risk activities and situations that entail real threat to the physical integrity of the bearer, upon Federal Police permission issued by request. Other than that, bearing weapons constitutes crime of illegal firearm possession, as provided for in Article 14 of

Law No. 10,826/2003.

In addition to demolishing houses and destroying crops, Trapiche resorted to armed guards to evict people from the area, especially by means of threats, as reported by fishermen. While still living on the islands, Conceição Alves reported in an interview to the Pastoral Land Commission in 2009 that “They [the islanders] had to get out, [the plant] would put

a gun on them. They were pushed out with humiliation. They [the islanders] feared the threats and could stand it no more. So they had to get out. Otherwise, they would not have left.”

In her 2007 testimony to the Prosecutor’s Office for Promotion of the Social Role of Rural Property, fisherwoman Maria Nasareth dos Santos declared:

[...] That the company paid no compensation to the squatters of Constantino island and only gave them a house on the slope of Oiteiro do Livramento, at the embankment, in the urban area of Sirinhaém; [...] That she had been threatened by EVÂNIA, by guards and policemen, and then arrested and brought to the police station; [...] That one of the officers had asked her: “Aren’t you afraid of dying, woman?”

In view of threat reports, REDETV ran a story showing the situation in the community. In it, one of the interviewed fisherwomen mentioned another death threat: “He said I had to leave, my dear. If I didn’t, we would have some deaths.”⁸¹

Some of the plant’s henchmen had nicknames that, by themselves, instilled fear on people. One of them was called “Zé da Bala” (Bullet Joe). Fisherman Romero Vale explained how he met this company employee:

And when this sugar mill owner arrived [in 1998, referring to Luiz Antônio de Andrade

Bezerra], things started to go sour. And he began to trick people, giving a thousand contos [name of an old Brazilian currency, still used to refer to current money] at that time to them. And I was one of the last. I said, I’m not going to stay by myself on these islands, I will leave too. Then the chief of guards introduced me to a guy named Zé da Bala, who was a pretty strong fellow.

Another character already mentioned was singled out by former residents interviewed by the Pastoral Land Commission as one of the more intimidating and threatening guards: employee Evânia Freire da Silva, former pastoral agent for the Pastoral Council of Fishermen (CPP).

And when this sugar mill owner arrived [in 1998, referring to Luiz Antônio de Andrade Bezerra], things started to go sour. And he began to trick people, giving a thousand contos [name of an old Brazilian currency, still used to refer to current money] at that time to them. And I was one of the last. I said, I’m not going to stay by myself on these islands, I will leave too. Then the chief of guards introduced me to a guy named Zé da Bala, who was a pretty strong fellow.

According to this entity, she was strategically hired by the company due to her extensive knowledge of the region, which would facilitate targeted actions against fishermen.

Evânia was a local leader who did some work with the local parish and was hired by CPP in 2000 to support a project to rebuild islanders’ houses destroyed by a severe flood. However, CPP realized the employee was embezzling house construction funds, which led to only 12 houses being built instead of 26 as envisaged.⁸²

This employee, who had been tasked solely with support to this island community, was there not to defend and guide fishermen and fisherwomen, but to further other interests [...] Evânia herself declared that money for the housing reconstruc-

81 RCE CANAMANGUE news report, prepared by REDETV! and broadcast on August 28, 2006, available at: <<https://www.youtube.com/watch?v=16VvDsce3WM&feature=youtu.be>>.

82 Concerning these facts, it is uncertain whether a police investigation was even initiated to establish her actions, as around 2010 the roof of the police station collapsed and many documents were lost. Unfortunately, at the time there was no computerized filing system, which makes it impossible to obtain accurate information on the outcome of the criminal complaint. Nevertheless, apparently there was no in-depth investigation of the case, as no charges were pressed against this employee. There are even suspicions that building materials diverted from the project may have been used as payment for the “agreements” imposed on the islanders, as some of them received similar materials and the timing coincides with CPP’s project.

tion project in the islands was being diverted to another purpose at her sole discretion.⁸³

Given the facts at hand, CPP pressed charges against Evânia for criminal misappropriation of the organization's assets, further aggravated for having been perpetrated at the expense of a social welfare and charity organization⁸⁴. She was removed from her activities at CPP, with due notification of her dismissal at all places where she acted on CPP's behalf.

Soon afterwards, to everybody's surprise, Evânia started to accompany the plant's security guards when they approached the islanders. Her professional link with the company was confirmed by the company itself a few years later, when they informed that the former pastoral agent was part of their staff in the capacity of area inspector for the islands.⁸⁴

In view of repeated threats, the Sirinhaém District Prosecutor asked the police to investigate the case. The investigation report concluded, based on several photos and reports of people bearing large caliber firearms, that some of the actions constituted crimes aggravated by violence or serious threat against persons and, furthermore, by self-interested motivation or considerable loss to the victim. Six Usina Trapiche employees were singled out as authors, including the manager of Trapiche Velho mill and an agricultural engineer.⁸⁵

There are also accounts by fishermen of the presence of civilian police in intimidating actions carried out by company employees, as when they approached fishermen ostensibly

bearing weapons. This is reported in a news story entitled "Threats Against Fishermen", published on March 13, 1999 by Jornal do Commercio:

After hearing the testimonials of four fishermen who have been living for 30 years in the lands of Usina Trapiche in Sirinhaém, the local prosecutor, Josenildo Santos, confirmed last Friday their reports of violence and threats by members of the Military Police. According to Santos, all fishermen told the same story: three MPs [military police officers] in uniform, with machine guns, came

(...) three MPs [military police officers] in uniform, with machine guns, came to them and threatened to arrest them if they didn't leave the lands, saying they would do without warrant (sic) by request of a company inspector known as "Assis." The fishermen said that by doing this the MPs force them to feel indebted to "Assis.". [...]

to them and threatened to arrest them if they didn't leave the lands, saying they would do without warrant (sic) by request of a company inspector known as "Assis." The fishermen said that by doing this the MPs force them to feel indebted to "Assis." [...] One of the witnesses said he was living outdoors because a MP had told him that he would be in trouble if he did tear his hut down [...]. The fishermen filed a complaint against the MPs, but civil police told them nothing could be done without proper identification of the perpetrators.

The facts described above are typical of a behavior that the Penal Code describes as private militia. According to the national legislation, forming, joining, maintaining or paying for a private militia is a criminal offense under Article 288-A, subjecting the perpetrator to up to eight years imprisonment. The prosecutor in charge of the Justice and Citizenship Rights Prosecutor's Office of the State Capital had already declared in 2006 that violation cases reported by the human rights organization Terra de Direitos could be interpreted as "acts of violence perpetrated by private militia against rural workers of the Sirinhaém islands"⁸⁷, and, in

83 Official letter from the Pastoral Council of Fishermen to the Sirinhaém parish on October 7, 2002.

84 Criminal Complaint filed against Evânia Freire da Silva at the Civil Police Station.

85 Official letter sent on September 18, 2006 by Usina Trapiche to the Sirinhaém Police Station, with a list of their employees working in activities related to the mangroves (both inspection and reforestation).

86 Report of the municipal police station of Sirinhaém - DIPC/DIREPIN⁷º DEREPO of November 20, 1998, present in the case files of Public Civil Investigation No. 0816.001033/98-12 of the Federal Prosecutor's Office, pages 95-100.

87 Official Letter No. 673/06 - 31st PJDCPFSPR, of September 5, 2006, from the Justice and Citizenship Rights Prosecutor's Office of the State Capital to the Sirinhaém Police Station.

2014, again mentioned the possibility that this crime was being committed.⁸⁸

As an attempt to bring some security to the islanders in view of numerous threats, including death threats, on June 18, 2008, a meeting to discuss the case was held between entities that were following the situation in the region and the state government's Justice and Human Rights Department. The purpose was to denounce the many violations suffered by the islanders, with special attention to those that posed danger to their lives and their physical integrity. Special state protection was requested for those whose lives were at risk, and threatened community leaders were included in the Program for the Protection of Human Rights Defenders of the State of Pernambuco (PEPDDH-PE)⁸⁹. Notwithstanding the preparation of an entry list, none were implemented and nobody was admitted into the Program.

State omission concerning human rights violations committed against the islanders was evident, this time by the Justice and Human Rights Department of the Pernambuco state government. The information we obtained was that there were no records of PEPDDH-PE admission requests concerning the Sirinhaém case⁹⁰, thus proving that no such arrangements had been made.

ILLEGAL ARRESTS AND CRIMINALIZATION OF FORMER RESIDENTS AND HUMAN RIGHTS DEFENDERS

CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS

Still as a strategy to ensure ownership of federal lands, Usina Trapiche resorted to intimidatory

actions and criminal charges against the representatives of institutions and organizations who, aware of clear violations of the rights of fishermen and fisherwomen, tried to intercede for them. The following complaints were filed:

I) Legal proceeding against members of the Franciscan Province of Santo Antônio do Brasil/Sirinhaém and local leaders – Usina Trapiche took legal action in 2006 against Sirinhaém community leaders and Friar Sinésio Araújo, by means of a prohibitory interdict⁹¹, to prevent the allegedly imminent infringement of its tenure of the land in question. In its initial pleading, it claimed that the fishermen, mobilized by Friar Sinésio – at the time a Franciscan missionary living at the São Francisco de Sirinhaém Monastery – were planning a “collective invasion of the mangrove”, when in fact this agent only provided religious guidance to the local residents.

II) Legal proceeding against rapporteurs of Plataforma Dhesca – In 2007, Usina Trapiche sued two rapporteurs for Plataforma Dhesca Brasil, claiming that they had assigned to the company a fact defined as criminal and detrimental to its reputation, thus committing the crimes of slander and defamation⁹². The respondents were Clovis Roberto Zimmermann, Rapporteur for the Humans Rights to Adequate Food and Agricultural Land, and Cândida Costa, Rapporteur for the Human Right to Work, who had participated in a mission to the state of Pernambuco in the previous year, 2006. What the authors called slander and defamation were, in fact, reports prepared by the rapporteurs about human rights violations committed by the plant against the traditional fishing community on the estuarine islands of Sirinhaém, which had been visited by them during the mission.

All cases above, in spite of their apparent legality, underscored by the filing of legal

88 Official Letter No. 625/2014 – 31st PJDCPFSPR, of June 18, 2014, from the Justice and Citizenship Rights Prosecutor's Office of the State Capital to the Federal Prosecutor's Office.

89 Dhesca Platform Report, available at: <http://www.plataformadh.org.br/files/2014/05/2008_conjunta_sirinhaem_pe.pdf>.

90 Official Letter No. 07/2016 from PEPDDH, on March 22, 2016, in response to a consultation by the Pastoral Land Commission (CPT-NEII).

91 Case No. 0000712-06.2006.8.17.1400, prosecuted at the Sirinhaém Judicial District. The ruling was favorable to the sugar mill and, during appeal, was upheld by the Pernambuco Court of Justice.

92 Case No. 0096972-40.2007.8.17.0001, dismissed due to statute of limitations.

proceedings, were in fact clear violations of freedom of expression. In the first case, a missionary friar used to visit the areas where the islanders lived to discuss religious matters, as well as their right to have their territory and environment preserved. The second involved rapporteurs from a traditional human rights organization, who had prepared a formal report based on their mission to the conflict area. In this respect, it is said in the report itself that the filing of criminal charges against the entity, through its rapporteurs, is “something unique in the six years of existence of the DHESCA Rapporteurs Project, which only goes to show that criminalization of human rights abuse victims and their defenders is growing in Pernambuco.”⁹³

The company’s stand concerning social organizations that monitored the conflict is clear. In addition to criminalization attempts through lawsuits and complaints filed with the police and other state bodies, they constantly sought to strike at the image of such entities by assigning them false claims, like the ones below:

According to the Usina Trapiche Administrative Manager, Mário

Jorge Seixas, the sole interest of his company in the estuarine islands of Sirinhaém river is to protect the environment. He said the owner, Luiz Antônio, has a history of concern with environmental issues, mentioning on this regard an area of 8,500 hectares of Atlantic forest that the businessman keeps fully preserved in another of his sugar mills, in the state of Alagoas. “We fail to see why social movements, politicians and government agencies defend the permanence of these people on the islands, where they live in sub-human conditions.” Seixas argues that the families [...] and that, according to him, may in the future turn the mangrove into a large slum. “Five years from now, the same people who now defend the

Still as a strategy to ensure ownership of federal lands, Usina Trapiche resorted to intimidatory actions and criminal charges against the representatives of institutions and organizations who, aware of clear violations of the rights of fishermen and fisherwomen, tried to intercede for them.

permanence of those fishermen will blame Usina Trapiche for degrading the mangrove”, he said. “The company does not mean these people any harm.” (Dispute over islands threatens fishermen - Jornal do Commercio, December 20, 1998)

In its initial pleading for the prohibitory interdiction proceeding, the company declared that:

The wrongful occupation by Maria Nasareth dos Santos finds support in several social movements, such as the Pastoral Land Commission, Social Pastoral, Pastoral Council of Fishermen, etc. [...] The stated goal of these persons and entities is to have the Sirinhaém mangrove occupied by hundreds of families.”⁹⁴

Therefore, such statements by the company, in line with others mentioned in this document,

and usually materialized via interviews conducted by academic researchers and local newspapers, as well as its arguments in legal proceedings, are always targeted at defaming and distorting the support provided to the local residents by social movements in order to discredit them.

Another example of this smear campaign can

be found in the statements made by a representative of Trapiche company during an interview to American researcher Lynn Schneider in 2010. On that occasion, the company employee tried to criminalize the entities that support the fishermen, as can be seen by the following excerpts from the researcher’s field report: “[the employee] told me a little about the resistance of islanders against expulsion. He explained that the Pastoral is a profitable business... hiding behind the Church to obtain funds and garner support for Leftist parties, so they benefit from maintaining the families on the islands and want to keep them there.” Still according to the field report, “When I asked

93 Relatório Plataforma Dhesca, page 2, available at: <http://www.plataformadh.org.br/files/2014/05/2008_conjunta_sirinhaem_pe.pdf>.

94 Case No. 0000712-06.2006.8.17.1400, prosecuted at the Sirinhaém Judicial District.

him about the possibility of turning the federal area into an Extractive Reserve, Seixas [company employee] told me this was only a strategy by the Pastoral and IBAMA [Brazilian Environment and Resources Institute], which is also 'headed by a gang'.⁹⁵

CRIMINALIZATION OF FISHERMEN AND FISHERWOMEN

Throughout the conflict on the islands, there was also an ongoing process of criminalization and state repression against the fishermen, both collectively and individually. It was basically an intimidation tactic to weaken families and make them afraid of remaining in the mangroves, as in the cases listed below:

I) Complaint filed by Usina Trapiche with the Pernambuco State Prosecutor's Office - District of Sirinhaém (MPPE), claiming that families of fishermen were causing degradation of the mangrove. The company "expressed its 'concern' with environmental degradation in the mangrove reserve [...] as a consequence of 'irregular and unwarranted occupation,'"⁹⁶ which led to Public Civil Inquiry No. 001/98 in 1998. This procedure was subsequently dismissed for lack of evidence of environmental damage by the fishermen in the estuarine zone, based on the opinions of IBAMA and the State Agency for the Environment.

At the time, IBAMA conducted a detailed survey and found no indication of the environmental crime of suppression of native vegetation by the islanders. According to technical report No. 33/98/DITEC/SUPES/PE, "no evidence was found, by IBAMA technicians who visited the region, of mangrove or restinga woods deforestation that could be assigned to environmental depredation."⁹⁷ The IBAMA report shows that this was yet another clear intimidation attempt based on false allegations.

II) Complaint filed by Usina Trapiche with the Federal Prosecutor's Office (MPF), claiming that

families of fishermen were causing mangrove degradation – The company claimed that the fishing community was suppressing mangrove vegetation at the Sirinhaém river estuary, which led to Public Civil Inquiry No. 08116.001093/98-36 in 1998. The procedure was subsequently dismissed because the company's claims were not substantiated.

At the time, newspapers in the state of Pernambuco State reported the plant's attempt to criminalize the community:

The plant has been trying since last January to remove 56 families of fishermen living on 17 of the 32 estuarine islands in the region, which belong to the federal government and are under jurisdiction of the company. Their allegation to expel the residents from the area is that they would be degrading the mangroves, which has not been confirmed by reports prepared this year by IBAMA and the State Agency for the Environment. Most of those people have been in the region for over 40 years, making their livelihood out of artisanal fishing and subsistence crops. (Justice turns down repossession of island by sugar plant, December 24, 1998, *Jornal do Comercio*).

The families living on 17 of the 32 islands of the Sirinhaém river estuary are worried with the possibility of having to leave the region, which belongs to the federal government and has Usina Trapiche as holder of long-term tenure (having usage or privilege rights over the property upon payment of a fee). Since last January, the company has been trying to expel nearly 300 fishermen living in the region under the argument that they are degrading the mangroves. In April, the company filed a complaint with the Pernambuco State Prosecutor's Office, which found, on the basis of a report by the State Agency for the Environment, that their presence did not cause environmental impact in the area. [...] Many of these people don't know what to do outside the mangroves, where they have been living for decades on artisanal fishing and subsistence crops. (Dispute over islands threatens fishermen, December 20, 1998, *Jornal do Comercio*).

95 Field report prepared by researcher Lynn Schneider during internship at the Pastoral Land Commission. Source: NE-II Archive of the Pastoral Land Commission.

96 Dismissal of Public Civil Inquiry No. 001/98 by the State of Pernambuco Prosecutor's Office in the District of Sirinhaém, present in the case file records of administrative procedure No. 08116.001033/98-12 by the Federal Prosecutor's Office, p. 223-227.

97 Technical report No. 33/98/DITEC/SUPES/PE.

Whenever a public agency issued an opinion or statement that did not suit them, it was also the target of disrepute, as shown by their statement against IBAMA, which according to a company representative was issuing biased technical reports to benefit the fishermen.

The Brazilian Institute for the Environment and Renewable Natural Resources [IBAMA] (sic) failed to find any deforestation of the mangroves or the restinga woods in the Sirinhaém river estuary, on the south coast, where Usina Trapiche is accusing fishermen of causing environmental degradation. In a technical report issued on April 6th, IBAMA informs that no environmental damage was found. [...] Usina Trapiche's Human Resources Manager, Silvio de Melo, disregards this report. "It is not a technical report, as demanded by the Prosecutor's Office, but an opinion requested by the interested party", the lawyer claims. (IBAMA finds no degradation at Sirinhaém river estuary, *Jornal do Comercio*, April 22, 1998).

III) Prohibitory interdict procedure against former island resident Luiz José de Santana – In 2006, having being named as one of the people who were allegedly planning to reoccupy the mangrove area, together with Friar Sinésio Araújo and Antônio de Outeiro, a community leader from outside the islands, this fisherman was also the target of the abovementioned prohibitory interdict⁹⁸, in which he was forbidden by court order to enter the fishing territory where he traditionally earned his living.

IV) Criminal charges for deforestation against Maria Nasareth and Maria das Dores - Those fishermen, the last still resisting on the islands, were heavily targeted by criminalization attempts. In 2007, Usina Trapiche filed a complaint against them, claiming that both were practicing consistent environmental damage by suppressing native mangrove vegetation. In spite of lack of any credible evidence, the Sirinhaém Prosecutor's Office brought charges

98 Case No. 0000712-06.2006.8.17.1400, prosecuted at the Sirinhaém Judicial District.



FAMILIES GATHERED TO DISCUSS VIOLENCE AND THREATS OF EXPULSION. THIS PICTURE WAS TAKEN IN 2007, WHEN THE FAMILIES STILL LIVED IN THE ISLANDS OS SIRINHAÉM. PHOTO: CPT NE2

against them for alleged deforestation crime, which led to criminal procedure No. 0000624-31.2007.8.17.1400. This procedure is currently suspended.

In an audience held during this process, fisherwomen Nasareth claimed that the charges made against herself and her sister were false, stating

That the trees had actually been removed by company employees, who then blamed them; That the company was acting this way to incriminate the witness, because they were annoyed that other fishermen and fisherwomen had left the islands while they remained; That she had not topped a single tree even to build her house.

V) Notice of infraction against Maria Nasareth, issued by IBAMA inspectors - More recently, in 2014, a new criminalization attempt was promoted by the State/Economic Power alliance. Upon complaints by the company about alleged environmental damage in the islands, IBAMA inspectors visited the Constantino island, where Maria Nasareth and Maria das Dores, even after their final expulsion, still went to carry out their traditional fishing activity. The inspectors behaved in a hostile and overbearing manner, shouting and interrogating the fisherwoman while visibly bearing weapons. Such behavior provoked a reaction from mongrels that were untethered and one of them bit IBAMA inspector Maria de Fátima Alves. As a result, the environment agency issued a notice of infraction against Nasareth⁹⁹, which led to the application of an outrageous fine of R\$ 5,000.00¹⁰⁰. She submitted her defense, which is still awaiting analysis by that agency.

VI) Criminal charges for impediment of inspection by public authority - Subsequently, still based on the above situation, the company filed a complaint with the Pernambuco State Prosecutor's Office, which brought charges against Maria Nasareth dos Santos¹⁰¹ for allegedly having impeded local inspection by IBAMA. Based on Brazilian law,

she was charged with the crime of impeding the action of public authorities in the exercise of environmental oversight. The suit was dismissed due to error about competence of the prosecuting instance, which should be the Federal Prosecutor's Office, with decision by a federal court. The fisherwoman is still liable to be prosecuted after such procedural defects are corrected.

ILLEGAL ARRESTS - "RESIST TO KEEP LIVING IN THE PLACE THAT PROVIDES LIVELIHOOD"

In June 2007, fisherwomen Maria das Dores and Maria Nasareth were arrested by military policemen inside their houses, without any arrest or search and seizure warrant and without being caught in *flagrante delicto*. The police sergeant who led the operation declared officially that "*flagrante delicto* was not adequate because they were not seen by the police committing the crime of deforestation."¹⁰²

However, according to Brazilian penal law, they could not have been arrested for the alleged crime of damage under such circumstances, which did not fit any of the acceptable possibilities for detainment, thus rendering the arrest illegal.

The military police affirmed in a document that they were "invaders of that location", implying that this had been the reason for their arrest. The fact occurred on July 16, 2007, when the repossession procedure against Maria de Nasareth was still ongoing, which means the court had not yet issued its final ruling in favor of either party. This only happens when there is no further possibility of appeal, which only happened on August 30, 2010. Therefore, the military policeman could not take upon himself the role of judge and decide that fisherwoman Nasareth was an "invader of the location", which further underlines the illegality of the police action.

According to the fisherwomen, at the police

99 Notice of Infraction No. 743.651-D, Administrative Procedure No. 02109.00558/2014-25 by Ibama-PE.

100 Law No. 9,605, 1998, article 69. Preventing or impeding inspection by a public authority while dealing with environmental issues: Punishment - one to three years imprisonment plus fine.

101 Case No. 0000623-02.2014.8.17.1400, prosecuted at the Sirinhaém Judicial District.

102 Official Letter No. 018/07 - DPM, of July 16, 2007, sent by 10th military police battalion to the judge of Sirinhaém district, attached to Notice of Violation No. 086, 2007.

station they were forced to sign blank documents (terms of commitment and expert report of *corpus delicti* examination). They are illiterate, a fact that was known to the involved public officials, who requested them to sign the documents with their fingerprints in order to be released by the police¹⁰³.

According to the workers, they were told that they were being arrested for the crime of environmental damage. However, the final Police Inquiry report informed that they had been arrested for having disrespected the military policemen. It should be noted that the alleged disrespect was not even mentioned in the police report written on the day of the arrests. Such claim was made by the policemen at a later testimony, when they were questioned about the lack of legal grounds for the arrest, which demonstrates the outright illegality of their action.

Although this event, tainted by so many illegalities, has been brought to the attention of the competent authorities by the entity Terra de Direitos (TdD) through police report No. 352/07, there is no record of any procedure to investigate such arbitrary and abusive use of power by both civil and military police. There was only an internal inquiry performed by the military police itself, which, as reported at the time, discharged the policemen of any responsibility.

Once again, this calls attention to the behavior of both the military police, which committed a serious breach of procedure by arresting the fisherwomen, and the civil police, which did not duly investigate clear violations in the case at hand.

Concerning this episode, Maria Aparecida de Azevedo, a teacher at local and state schools and member of Catholic Church pastoral com-

munities, commented:

I remember that Nasareth was arrested on... I can't remember the day, it was a Friday. We were leaving the school here in Doutor Eurico Chaves and we saw Nasareth and her children detained at the police station, right? Some of those who were dressed with Cipoma clothes, also linked to the sugar mill, argued that Nasareth had resisted arrest. Nasareth did not resist arrest, Nasareth resisted to keep living in the place that provided and still provides her livelihood.¹⁰⁴

The described situation characterizes a clear violation of the human right to freedom, as illegal arrest constitutes an arbitrary and un-

I remember that Nasareth was arrested on... I can't remember the day, it was a Friday. We were leaving the school here in Doutor Eurico Chaves and we saw Nasareth and her children detained at the police station, right? Some of those who were dressed with Cipoma clothes, also linked to the sugar mill, argued that Nasareth had resisted arrest. Nasareth did not resist arrest, Nasareth resisted to keep living in the place that provided and still provides her livelihood.

lawful curtailment of the right of locomotion, thus being a serious infringement of the Brazilian legal system. Given its importance, such right is protected by fundamental international treaties concerning human rights, as well as by the constitutions of all democratic nations, including the Brazilian Constitution in its article 5. Some examples are the Universal Declaration of Human Rights, articles 3 and 9; Pact of San José of Costa Rica, article 7; and International Covenant on Civil and Political Rights (ICCPR), which, in article

9, states that "Everyone has the right to liberty and security of person. No one may be arrested or imprisoned arbitrarily."

Vê-se, dessa forma, que o direito penal vem exAs it can be seen, criminal law has been playing a key role in the process to get the islanders expelled, being applied precisely against those who try to help them denounce the situation they are experiencing and hindering their access to the fishing territory where they laid roots and always secured their livelihood. In this regard, a biased view of law

103 Follow-up report "Ilhas de Sirinhaém" by Terra de Direitos and the Pastoral Land Commission. Recife, 2007, p. 07.

104 Interview to geographer Plácido Júnior - Sirinhaém, 2009.

“WARRIOR OF THE ISLANDS”

One of the most emblematic examples of resistance in the conflict for the Sirinhaém river islands is embodied by a woman of small stature but indomitable will: fisherwoman Maria Nasareth dos Santos. Her family and that of her sister, Maria das Dores, were the last expelled from the Sirinhaém islands, in 2010. Born and raised on the islands, Nasareth and her sister withstood all kinds of violence, both by Usina Trapiche and the judicial system. Even after their eviction, the granddaughter of the first resident on the islands stands determined to remain in her traditional territory, with a persistence that inspires those around her. Every day the warrior returns to the mangrove where she was born and raised. Because of her bravery and sense of justice, she still faces constant intimidation and threats to stop visiting the place. In 2013 alone, Maria Nasareth had her straw hut destroyed three times by Usina Trapiche employees. This hut was used as a support for her fishing activity – as a place to store the fish and the tools of her trade. It had been erected next to the mangrove, in the same land where she lived all her life. “Once, they burned her hut, threw her food away, seized her fishing tools and burned her identity card.”¹⁰⁵ The fisherwoman was not intimidated. She rebuilt her hut and will keep rebuilding it as many times as necessary. “She goes back to the islands every day, not only to secure her livelihood, but also because she believes one day that land and that history will again belong to her people.”¹⁰⁶ Nasareth, her sister, her mother, her grandmothers and great-grandmothers, are all women who understood from an early age that the value of caring and struggling to remain in their territory means a guarantee of life. By following this path, these brave women have gained historical importance. Nasareth carries the strength of all women who came before her, as well as the tenacity and hope of all women who, like her, built a territory with plenty of food, built new ways of relating with others and, through their connection with the environment, built a good place to live.

“I can’t see myself away from here!

I don’t want to starve on the streets like those who were expelled!

The only thing that the sugar mill promises and fulfills it’s our expulsion and a life of misery.

I felt the weight of the State on me;

I felt the weight of the Judiciary on me;

I felt the weight of sugarcane agribusiness, which is anything but sweet, on me;

In some moments the Cross also weighed on my shoulders.

I WILL RETURN!

WE WILL RETURN!

YES, I AM A WARRIOR OF THE ISLANDS!”

(Recife, November 9, 2010 – Plácido Júnior – Pastoral Agent of the Pastoral Land Commission)

105 Pastoral Land Commission - Northeast II. Maria de Nazareth, available at: <http://www.cptne2.org.br/index.php/publicacoes/noticias/noticias-do-campo/59-pe/3902-maria-denazareth.html>. Accessed on May 15, 2016.

106 idem

is being used by the economic powers in the region to keep the fishermen away.

The right to resist oppression is treated as a right-duty by the current Universal Declaration of Human Rights, proclaimed by the UN General Assembly in 1948, and plays a key role in the fulfillment of other rights that are recognized as fundamental to human beings. In this sense, criminalizing persons who are struggling to have the fundamental rights of their community respected is, in itself, a violation of law. The fact that such criminalization is being carried out as described previously, with police arbitrariness and connivance, not only ratifies its character of violation and persecution, but also constitutes crimes of malfeasance (article 319 of the Penal Code) and arbitrary violence (article 322 of the Penal Code).

The facts reported reveal much more than the violence committed against a traditional fishing community that created their own sort of environmental management and established a balanced relationship with nature, in harmony with their traditional territory.

Their eviction from the traditional territory of the Sirinhaém islands shows that, even today in Brazil, public authorities maintain a close relationship with wealthy sugar mill owners and farmers in the Northeast region, thus reproducing archaic and provincial forms of oppression.

The case also reveals how a traditional community failed to have its territorial rights upheld by both the judiciary and executive branches of government. The State sided with the sugar plant to expel these families and place them in a condition of unworthiness and indigence.

THE RIGHT TO AN ECOLOGICALLY BALANCED ENVIRONMENT

The right to an ecologically balanced environment is enshrined by the Brazilian Constitution

in its article 225¹⁰⁷, aimed at protecting human beings by regulating the rational use of natural resources that are indispensable for the survival of humankind. Implementation of this right, therefore, is an indispensable requirement to ensure a minimally dignified existence to all individuals. Such right, which is transindividual in character and concerns not only the current generation, but also future ones, springs from the Stockholm Declaration of 1972, which in its principles 1 and 2 establishes, respectively, that:

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations.

The International Covenant on Economic, Social and Cultural Rights, adopted by means of Legislative Decree No. 226 of December 12, 1991, and in force in Brazil, provides, in its article 12, that the State Parties to the Covenant acknowledge the right of everyone to enjoy the highest attainable standard of physical and mental health, and must adopt, in order to ensure the full exercise of this right, the measures deemed necessary to promote, among other things, the improvement of all aspects related to occupational hygiene and the environment.

Therefore, to ensure the right to an ecologically balanced environment, not only the individual rights to life and human dignity as provided for in article 5 of the Constitution are being guaranteed, but, by consequence, all other rights of economic and social nature (such as the right to health, work, sustenance, etc.), thus giving rise to the understanding that the right to a healthy environment is both an individual and a social right (ALVES JÚNIOR, w/d).

This implies that all natural resources, whether public or private, are common to all

107 Article 225. Everyone is entitled to an ecologically balanced environment, a resource of common use by the population and essential to a healthy quality of life, being the government and the people invested with the duty to defend it and preserve it for present and future generations

persons, as their preservation or lack thereof affects everyone without distinction. It follows that every rural or urban property, even if private, must fulfill its social role, consisting in the adequate use of available natural resources and preservation of the environment (articles 182, paragraph 2, and 186, subparagraph II, of the Federal Constitution), under penalty of state intervention into the private domain through expropriation of the property (Federal Constitution, articles 5, XXIV, and 170, III and VI).

Therefore, the right to an ecologically balanced environment results in the principle of mandatory state intervention for environmental protection, given the non-transferable nature of such right. Thus, the State must act in defense of the environment both in the administrative sphere, with audits and notifications of violation, and in the legislative and judicial spheres, in order to enforce this protection. State Law No. 12,916/2005 provides, in its article 31, paragraph 1, that “any environmental authority that has knowledge of an environmental violation is obliged to promote its immediate investigation by means of a specific administrative procedure, under penalty of co-responsibility.”

In the specific case discussed in the present study, the offending practices most felt by the fishing communities in the Sirinhaém river estuary islands were the constant dumping of sugarcane vinasse and the deforestation of riparian forests attributed to Usina Trapiche.

ATLANTIC FOREST DEGRADATION

Conservation of forested areas in the form of Legal Reserves¹⁰⁸ and Permanent Preservation Areas (APPs)¹⁰⁹, as required by the Forest Code, was not being observed by Usina Trapiche. In fact, the company was illegally profiting from sugarcane cultivation in areas that should have been set aside for conservation of the Atlantic Forest.

The following situation was found by IBAMA¹¹⁰:

On flyby, it could be noticed that permanent preservation areas were quite degraded or lacking forest cover and there were no significant forest areas corresponding to the legal reserve of 20% of total property area. Both cases are viewed as environmental violations subject to distinct, but cumulative, administrative sanctions and criminal penalties that are directly related to the lack of environmental licensing. [...] In addition to the lack of forest cover, it can be inferred that agricultural practices related to sugarcane cultivation, such as burning and application of pesticides, correctives and organic waste, are being carried out without the required criteria for environmental protection¹¹¹.

Removal of forest cover on stream banks contributes significantly to the degradation of water resources, as it speeds up erosion processes, river silting and leaching of industrial substances. Thus, according to IBAMA, Pernambuco is the northeastern state with the highest water deficit, because watercourses that supply the bulk of its population are signifi-

108 Legal Reserve - Article 12 of Law No. 12,727/2012: “All rural properties must maintain an area with native vegetation coverage, by way of Legal Reserve, without prejudice to the application of rules on Permanent Preservation Areas, observing the following minimum percentages in relation to the area of the property, except in the cases provided for in article 68 of this Law: I - Located in the Legal Amazon region: a) 80% (eighty percent) for properties located in forest areas; b) 35% (thirty five percent) for properties located in grassland areas; c) 20% (twenty per cent) for properties located in general field areas; II - Located in other regions of the country: 20% (twenty percent).

109 Permanent Preservation Area - Article 3, II, of Law No. 12,727/2012: “Protected area, covered or not by native vegetation, with the environmental function of preserving water resources, landscape, geological stability and biodiversity, facilitate gene flow of fauna and flora, protect the soil and ensure the well-being of human populations.”

110 The Brazilian Institute for the Environment and Renewable Natural Resources (Ibama) is an autonomous government agency linked to the Ministry of the Environment, whose main task is to implement the national environment policy by performing actions related to environmental licensing, environment quality control, authorization to use natural resources and environmental auditing, monitoring, and control, whenever such actions pertain to the federal scope.

111 Detailed Inspection Report for Notice of Infraction No. 541693/D, contained in the case file documents of administrative proceeding No. 02091.000643/2008-45, p. 3.

cantly degraded, especially in areas of sugarcane cultivation¹¹².

The State Agency for the Environment found environmental infractions committed by the plant, involving irregular suppression of native vegetation, as described below:

- ◆ Notice of infraction No. 00617/2011, which originated procedure No. 003784/2011: Usina Trapiche was fined R\$ 20,000.00 (twenty thousand reais) for the suppression of Atlantic Forest biome to build a road without license or permission. The audit took place after a news report published by Jornal do Commercio. The procedure is awaiting decision on an appeal filed by the company with the Pernambuco State Council for the Environment (CONSEMA)¹¹³, where one of the seats is occupied by the company lawyer, Ivon Pires Filho, in the capacity of counsel representing the Brazilian Bar Association (OAB).

- ◆ Notices of infraction No. 00514/2014 and 00515/2014, which originated procedure No. 010361/2014: dealing with unauthorized suppression of vegetation formed by native and exotic trees; imposing the penalties of warning, construction embargo and obligation to submit a reforestation project with the necessary adjustments. The case is still pending at the State Agency for the Environment.

The Atlantic Forest is a constitutionally protected biome (article 225, paragraph 4, Federal Constitution of 1988), having such protection been belatedly regulated by Federal Law No. 11,428/05, which sets forth actions and redoubled protection to the remaining forest, as well as recovery of degraded areas.

According to IBAMA, although very little remains of the original forest, there is still deforestation going on to plant sugarcane. In 2008, IBAMA was able to verify non-compli-

¹¹² Analytical Report by Ibama in the case file documents of administrative proceeding No. 02091.000643/2008-45, p. 13.

¹¹³ The Pernambuco State Council for the Environment is a collegiate body with advisory and deliberative functions, comprising representatives from government agencies and the organized civil society and directly linked to the State Government, which was created by Law No. 10,560 of January 10, 1991

**FLAGRANT – TRAPICHE SUGAR CANE MILL’S TRACTOR DEFORESTS PART OF THE NATIVE FOREST TO BUILD ROAD NEAR SIBIRÓ RIVER.
PHOTO: CPT NE 2 COLLECTION**





FLAGRANT – TRAPICHE SUGAR CANE MILL’S TRACTOR DEFORESTS PART OF THE NATIVE FOREST TO BUILD ROAD NEAR SIBIRÓ RIVER.
PHOTO: CPT NE 2 COLLECTION

ance of the Forest Code regarding both the requirement to keep a 20% forest cover as Legal Reserve and areas of permanent preservation, which, in that region, are mostly marginal forests to water courses, mangroves, slopes and hill tops. “Presently, the area used for sugarcane cultivation corresponds to 400,000 ha, which, if the legal reserve limits had been respected, would ensure the existence of at least 80,000 ha of Atlantic forest – four times the currently remaining area.”¹¹⁴

Given this scenario, and driven by the alleged intention to establish environmental adequacy policies targeted at the sugar and ethanol industry, a Term of Commitment¹¹⁵ was signed in September 2007 by the State Agency for the Environment (CPRH), the then Department of Science, Technology and Environment

(SECTMA), the Sugar and Ethanol Industry Union in the State of Pernambuco (Sindaçúcar/PE) and the Federal Rural University of Pernambuco (UFRPE), with the following objective:

Set strategies, mechanisms and deadlines for all sugar and ethanol producing units in the state of Pernambuco to develop actions aimed at adapting their activities to the environmental legislation concerning recovery of Permanent Preservation Areas (APPs), and to establish Legal Reserve Areas (first clause of the Term of Commitment).

However, it turned out that the objective set forth in the first clause was unattainable in view of an agreement endorsed by the state government. through SECTMA and CPRH,

¹¹⁴ Analytical Report by Ibama in the case file documents of administrative proceeding No. 02091.000643/2008-45, p. 12.

¹¹⁵ Procedure No. 6,132/2007.



which required reforestation of a negligible area of six hectares of riparian forest per year per plant during a period of three years, up to the maximum of 18 hectares per company – which means that, instead of a plan to make up the reforesting debt of sugar mills, which was estimated at 80,000 hectares of Atlantic forest, this agreement ended up offering a false perspective of care for the environment by admitting the recovery of only 324 hectares by all sugar plants in the state over a period of three years (MOMESSO, 2011).

This agreement, which was heavily criticized by IBAMA officials at the time, suggests not a real intent to adapt to environmental demands, but rather a marketing strategy by sugar and ethanol producers to improve their image with the population and their domestic and international markets. Since IBAMA was already applying pressure on representatives of the sugar and ethanol industry to accept a plan that would settle the whole reforestation debt of the sugarcane sector in Pernambuco (approximately 80,000 hectares), they instead negotiated an alternative plan with the state authorities in anticipation of a possible move by that federal agency against the plants.

It should be mentioned that IBAMA had spent almost two years (since 2006) holding meetings with mill owners in Pernambuco to discuss the compliance of their plants with the Forest Code, particularly with regard to recovery of Permanent Preservation Areas and Legal Reserves, and was even willing to negotiate deadlines. The State Agency for the Environment at first attended those meetings, but subsequently left the process, which was then gradually abandoned by the plants as well. This happened because the State Agency for the Environment and the sugar and ethanol industry were conducting parallel negotiations, from which IBAMA was excluded. Such dealings resulted in the Term of Commitment mentioned above, which is totally ineffective in terms of compliance with reforestation demands.

Given all that, by mid-2008 (almost one year after the state-promoted agreement), IBAMA carried out a large auditing operation called Engenho Verde. In this operation, IBAMA issued notices of infraction against all sugar and ethanol plants in the state of Pernambuco (24 at the time) for lack of environmental licensing for the purpose of sugarcane cultivation, pur-

116 Licensing of farming activities pertains to each state and, in Pernambuco, is regulated by state Law No. 2,916/2005, which, in its article 4, establishes that “location, construction, installation, expansion, modification, renovation, restoration, and operation of establishments, works and activities that use environmental resources or that are considered effectively or potentially polluting [...] depend on previous licensing by the State Agency for the Environment, without prejudice to any other legally required licenses,” being all agricultural activities that involve irrigation and/or soil drainage subject to environmental licensing, according to item 8.2, Annex 1 of the same Law.

117 Subsequently, Ibama also filed public civil actions against twenty of the notified mills, demanding compliance of their rural properties with environmental law.

suant to article 4 of state Law No. 1,296/05¹¹⁶, and imposed a fine of R\$ 5,000,000.00 (five million reais)¹¹⁷ on each plant, including Usina Trapiche.

LACK OF ENVIRONMENTAL LICENSING

In the lands now belonging to Usina Trapiche, sugarcane cultivation activities, viewed as polluting and environmentally damaging, were being carried out without due environmental license, which is required according to Law 6928/81 (which institutes the National Environment Policy) and state Law No. 2,916/2005 (article 4 and Annex 1, item 8.2).

Pursuant to Resolution No. 237/97 of the National Environmental Council (CONAMA), licensing is an administrative process by which the competent environmental agency grants a license for installation and operation of enterprises and activities that use natural resources and are considered to be effectively or potentially polluting.

O licenciamento é, portanto, um instrumentoTherefore, licensing is an instrument of preventive nature, which enables a previous analysis of projects and measures or alternatives to be adopted in each case. Furthermore, it provides for permanent monitoring of sub-activities posing environmental risk related to the enterprise, enabling a foreknowledge of the consequences of potentially polluting activities. Therefore, it is in line with the principles of prevention and precaution, as recommended by the Stockholm Conference in 1972.

It is also worth mentioning that, to approve the environmental licensing of an agricultural activity, the responsible agency must demand, among other requirements, a formal declaration of the legal reserve in the respective rural property and the guarantee of conservation or recovery of permanent preservation areas (APPs). In both cases, if the property has an environmental liability, a Term of Adjustment of Conduct (TAC) can be entered into to recover the areas under legal protection, since, regard-

less of who may have caused the damage, the duty to repair it stems from actual possession of the property. Thus, the obligation to recover the forest falls upon the current owner of the area.



FIGURE 1. MINIMUM FOREST COVER THAT IS LEGALLY BINDING FOR THE PRIVATE OWNER OF A RURAL PROPERTY.¹¹⁸

SOURCE: *CARTILHA DO CÓDIGO FLORESTAL BRASILEIRO*

Therefore, the requirements of legal reserve and permanent preservation area in agricultural properties represent legal forms of administrative limitation on private properties, as provided for in the Brazilian law. In this connection, environmental licensing of productive activities is an instrument to ensure fulfillment of the social function of property – namely, discharge of the owner's responsibility towards these common assets of the people represented by the forests existing inside it.

Development of agricultural activities without licensing implies, in turn, absence of control by environmental agencies, which may lead to various aggressions to nature. Thus, the absence of such instrument, by itself, characterizes risk and potential damage to the environment. For this very reason, Brazilian law establishes the obligation of environmental license for each activity or enterprise and treats their installation or operation without license from the competent environmental agency as a

¹¹⁸ Cartilha do Código Florestal Brasileiro. Available at: < http://www.ciflorestas.com.br/cartilha/reserva-legal_qual-deve-ser-o-tamanho-da-reserva-legal.html>. Access on: July 29, 2016

crime, pursuant to article 60 of Law 9,605/98. One to six months imprisonment, a fine, or both cumulatively may be imposed for activities involving:

Construction, renovation, expansion, installation or operation, anywhere on the national territory, of potentially polluting establishments, works or services without license or authorization from the competent environmental bodies, or contrary to the relevant laws and regulations.

Brazilian legislation empowers state environmental agencies to perform environmental licensing of any activities or enterprises installed in their territory, except those that impact two or more states or directly impact indigenous lands or federal conservation units, which fall within the competence of IBAMA, the federal environmental agency. Thus, being the state environmental body, the Pernambuco State Agency for the Environment (CPRH) is responsible for environmental licensing of both industrial and agricultural activities of sugar mills.

However, up to 2008 CPRH completely ignored the agricultural activities of sugar mills, which did not even seek the required environmental license.

That means that all environmental licenses requested by sugar and ethanol plants applied exclusively to their industrial activity and made no reference to their agricultural activity. Even so, until then there was no record of requests or enforcement actions by the competent bodies.

Without an environmental license, there was no need to deal with the issues of lack of protection to legal reserve and permanent protection areas, indiscriminate use of pesticides, etc. This failure to demand environmental licensing of agricultural activities was the form adopted by the state of Pernambuco for over 20 years to avoid confronting the political power of sugar

mills. The result is that Pernambuco became the state with the worst national conservation indicator for the Atlantic forest, already the most threatened biome in the country.

Operation Engenho Verde, carried out by IBAMA, for the first time fined and took legal action against all sugar plants in Pernambuco for not having the required environmental license. Under an agreement with the Ethanol Industry Union in the State of Pernambuco, the State Agency for the Environment started to issue new environmental licenses for sugar plants with a broadened scope to include agricultural activities, and not just industrial activities as before. However, this entailed no formal process, technical analyses or setting of environmental conditions; a new license was merely printed with its scope enlarged. Thereafter, the plants began to submit their new licenses to

Development of agricultural activities without licensing implies, in turn, absence of control by environmental agencies, which may lead to various aggressions to nature. Thus, the absence of such instrument, by itself, characterizes risk and potential damage to the environment.

the courts, claiming that they were in proper conformity with the law. This procedure demonstrates the extent of the political clout enjoyed by the plants with environmental agencies, and in this case, particularly with the state environmental agency (MOMESSO, 2011).

WATER POLLUTION IN THE ESTUARINE REGION

According to the interviews, the harshest environmental infraction to small-scale fishermen who make their livelihood on the Sirinhaém river is the outpouring of sugarcane vinasse.

Sugarcane vinasse (or stillage), a toxic waste product of the ethanol distillation process, is produced by Usina Trapiche at the ratio of 14.3 liters per liter of ethanol, according to data submitted by the company to IBAMA¹¹⁹. It has high temperature, acidic pH, corrosivity, high potassium content, and significant amounts of

¹¹⁹ Information provided by Usina Trapiche, reported on page 271 of Administrative Proceeding No. 02019.000643/2008-45, currently under analysis by Ibama. Such proceeding deals with Usina Trapiche's responsibility for the absence of environmental licensing from the State Agency for the Environment for its agricultural activities, which, by themselves and without considering the industrial activity, are potentially polluting and degrading, thus rendering a license mandatory

nitrogen, phosphorus, sulfates, and chlorides, among others (RAMOS; LUCHIARI JÚNIOR, 2016). In contact with water, this nutrient-rich substance (containing especially nitrogen and phosphorus) promotes quick and intense bacterial growth that can consume all the oxygen present in the water, in a phenomenon known as eutrophication.

It should be further noted that vinasse pouring does not compromise only surface waters; ground waters are also affected, which, in turn, can jeopardize the aquifers, causing damage to the society at large and to future generations who will depend on these water resources.

According to Law No. 9,433/97, which established the National Water Resources Policy (PNRH), water is a public-domain natural resource endowed with economic value (article 1, subparagraphs I and II), being the objectives of the PNRH: 1) to ensure the necessary availability of water to current and future generations, with appropriate quality standards for each use. Management of water resources must always provide for multiple uses of water; 2) rational and integrated usage of water resources, with a view to sustainable development; 3) prevention and defense against critical hydrological events of natural origin or arising from inadequate use of natural resources (article 2, subparagraphs I to III).

In turn, state Law No. 12,984/05, defining the State Water Resources Policy and the Integrated Water Resources Management System, establishes that access to water is a right of all (article 2, subparagraph VII) and management of water resources must take into account regional and local development, as well as environmental protection (article 2, subparagraph VIII).

However, the Sirinhaém fishermen claim that during the whole sugarcane milling period (from September to March every year), Usina Trapiche constantly pours its vinasse into the Sirinhaém river. Over the years, this has been causing a sharp decline in the species of fish, crustaceans and mollusks in the river, with direct damages to the small-scale fishing com-



IN SIRINHAÉM, SUGAR CANE PLANTATION MOVES TOWARD THE RIVER BANK. PHOTO: CPT NE 2 COLLECTION

munities in the municipalities of Sirinhaém and Ipojuca, totaling 5,000 workers (data from IBAMA¹²⁰). This population depends on fishing on the Sirinhaém river to feed themselves and to earn a small income from the sale of their surplus.

As espécies impactadas pela contaminaçãThe species impacted by water contamination are: catfish, mojarra, mullet, sea bass, flathead gray mullet, crab, mangrove tree crab, stout tagelus, carib pointed venus, among many others. Even salt-water moray eels are affected by this contamination, because they enter the river.

It is important to note that recurring contamination of Sirinhaém river is not recent. The first news we found about sugarcane vinasse dumping into these river waters dates back to 1998. Since then, there were repeated complaints about the same situation of envi-

120 Studies conducted by Ibama on the feasibility of creating in the region a Conservation Unit of the kind "Extractive Reserve - Resex". Those studies were used in administrative proceeding No. 02019.000307/2006-31, currently under analysis at ICMBio, which deals with the creation of this protected area.



ronmental violation. This shows that the issue was not dealt with adequately by state bodies and entities in charge of environmental monitoring (IBAMA and the State Agency for the Environment) and protection of the right to an adequate environment (Prosecutor's Office¹²¹).

In 1998, the Federal Prosecutor's Office launched a Public Civil Inquiry¹²² to investigate reports of environmental damages to the Sirinhaém estuarine zone, to the islands and to areas under long-term lease by the federal government to Usina Trapiche. At the same time, the Pernambuco State Prosecutor's Office in Sirinhaém was also investigating reports of environmental crimes in the same region and

conducting public hearings and local surveys to collect evidence.

Such local survey on the estuarine islands was performed in March 2001, with the presence of representatives from the Pernambuco State Prosecutor's Office, the local Association of Residents and Fishermen, the northeastern chapter of the Pastoral Council of Fishermen and the State Agency for the Environment. The existence of environmental crimes was verified *in loco*, such as vinasse pouring into the river, irregular burning of sugarcane fields, inadequate use of pesticides and irregular sugarcane planting in permanent preservation areas.

The confirmation of such violations by official agencies led to Notice of Infraction No. 0209/2001, issued by the State Agency for the Environment, for the pouring of *in natura* industrial liquid effluent (sugarcane vinasse) into the Sirinhaém river, in violation of article 54 of Law No. 9,605/98¹²³. The violations identified through local survey also led to the initiation of a new procedure by the Pernambuco State Prosecutor's Office and the holding, in April of the same year, of a public hearing to discuss the impacts associated to the irregularities committed by Usina Trapiche. Given its importance, the hearing took large proportions and was attended by the mayor and aldermen of the city of Sirinhaém, the district judge, and representatives from the State Agency for the Environment, IBAMA, community organizations and Usina Trapiche.

Further evidence of environmental damage caused by the company is the fact that at approximately the same time, in March 2001, there was a high mortality of oyster seeds cultivated by the families on the islands, which they attributed to vinasse pouring into the Sirinhaém river. Such oyster cultivation was part of a project entitled "Experimental Cultivation of the Mangrove Oyster *Crassostrea Rhizophorae* (Guilding, 1828) by Family Units in

121 The Prosecutor's Office plays a key role with regard to environmental protection, especially after Law No. 7,347/85, which regulated Public Civil Actions for responsibility in damages to the environment and the possibility of intervention by federal and state instances of prosecution in environmental issues by initiating an internal administrative procedure - a civil inquiry - to investigate reports of environmental violations and lay the groundwork for a lawsuit, as well as out-of-court settlements with executive force (Terms of Adjustment of Conduct - TACs).

122 Public Civil Inquiry No. 08116.001033/98-12

123 In spite of requests, the State Agency for the Environment failed to provide any information about the progress of the mentioned Notice of Infraction.

Fishing Communities”, offered by the Support Program to Families of Family-Based Farmers and Artisanal Fishermen in Pernambuco (PRORENDA RURAL-PE) under ProRural¹²⁴ to increase the income of these communities.

The PRORENDA program team had found that the seeds were well adapted in the first days, with low mortality rate – out of 60,000 seeds inserted into cultivation units, only 1.2%, corresponding to 730 seeds, had died. However, in the subsequent week, seed mortality skyrocketed, reaching 30% of the total (17,820 oyster seeds), coupled to high mortality of crabs and shrimp nearby, and it was observed that “the river water was darker than usual and featured an unpleasant odor that is characteristic of syrup¹²⁵”.¹²⁶

The loss from the death of oysters was initially estimated at R\$ 2,763.00 (two thousand, seven hundred and three reais), in addition to the financial loss to the program and the families, who were prevented from putting into practice their knowledge and experience in oyster cultivation due to river pollution by vinasse. Because of this, members of ProRural filed a complaint with the State Agency for the Environment describing the situation¹²⁷.

On top of other findings and claims made by the fishermen, in a document entitled “Biological Report for Determining the Area of Influence of the Sirinhaém River Estuary - PE”, issued in June 2008 and produced to support

an administrative proceeding aimed at creating a RESEX-type conservation unit in the Sirinhaém river estuary, the technical team that prepared the report was also able to verify the pouring of vinasse into the river during a field visit:

Although environmental legislation prohibits direct disposal of this effluent in rivers, lakes, oceans, and even randomly into the soil, with-

out proper care, [...] this form of environmental crime is customary in the sugarcane region, the same occurring with Usina Trapiche, as observed during a field visit (Figure 32). Under the law, such liquid should undergo physicochemical treatment and be normalized to ensure perfect adequacy to the absorption capacity of soils, with those in charge at the plant responsible for taking due care to avoid contamination of watercourses and groundwater. According to Barra de Sirinhaém residents and former residents on the islands, both Usina Trapiche and

Usina Cucaú release vinasse into the river, causing fish mortality at the estuary. Such mass mortality is explained by the acidic pH of the effluent, around 4.0 to 4.5, and low water oxygenation¹²⁸.

Another situation of pollution of water bodies, established by IBAMA in 2009 after a complaint made by the Pastoral Land Commission, consisted in the contamination of Tapiruçu river (tributary to the Sirinhaém river) by effluent discharge from industrial washing of sugarcane (a material that is considered highly polluting) without proper treatment, causing fish mortality and significant

124 ProRural (State Support Program to Small Rural Producers) is a sustainable rural development support program linked to the Executive Secretariat for Rural Technology and Special Programs of the Department of Agriculture and Land Reform of Pernambuco.

125 “Syrup” is another name used to designate sugarcane vinasse.

126 Official letter No. 059/2001 from PRORENDA RURAL-PE to the State Agency for the Environment on May 14, 2001.

127 Unfortunately, we were not given access to this complaint and there are no news about practical results, not even by direct phone contact with the person responsible for monitoring the project at ProRural, which leads us to believe that, once again, no punishment was applied to the mills for damages to the environment and to the local fishermen.

128 Laudo Biológico para Determinação da Área de Influência do Estuário do Sirinhaém-PE (Biological Report for Assessment of the Area of Influence of the Sirinhaém Estuary, State of Pernambuco) p. 66, June 2008.

destruction of biodiversity. This led to Notice of Infraction No. 506310/D, by which Usina Trapiche was fined in R\$ 1,000,000.00 (one million reais) on the basis of article 61 of Federal Decree No. 6,514/2008.¹²⁹

Sugarcane washing consists in the removal of foreign matter such as sand, clay, straw, etc., to obtain a purer juice and increase the service life of equipment by reducing wear. This close contact of water with cane dissolves part of the sugar, carrying organic matter and generating high levels of BOD in the water¹³⁰, which may cause a decrease of dissolved oxygen and lead to mortality of aquatic species.

According to a Technical Report¹³¹ prepared by IBAMA to support the administrative proceeding arising from the Notice of Infraction,

in addition to the release of industrial effluents,

other diffuse pollution sources from sugarcane cultivation were identified, such as fertilizers and other inputs, ashes from burning, agricultural drainage and pesticides.

The report also mentions that, at the effluent discharge spot, differences were noticed between the original brownish waters of the stream and the dark grey waters of pollution. Ten meters downstream, the water fully assumed the aspect of the effluent, characterized by stench, bubbles caused by rot, etc.

The main changes noted were: change in the natural color of the water, which interferes with light transmission, reducing the photosynthetic action of aquatic plants; strong smell resulting from production of gas by organic matter rot, which demonstrates the high consumption of

129 Article 61. Causing pollution of any kind in levels that result or may result in damages to human health, mortality of animals or significant destruction of biodiversity: fine of R\$ 5,000.00 (five thousand reais) to R\$ 50,000,000.00 (fifty million reais).

130 ALBUQUERQUE, Ademir Gonçalves. Avaliação exergética dos efluentes do processo industrial do álcool.

131 Procedure No. 02019.001428/2009-42, p. 18/27.

THE BORDERLINE – MONOCULTURE ADVANCES UPON THE NATIVE FOREST AND THE MANGROVE.

PHOTO: CPT NE 2 COLLECTION



dissolved oxygen in the water; and mass mortality of fish and other aquatic organisms, particularly fish of the *Ariidae* family, which is indicative of oxygen levels below 2 mg/L.

At the time, this fact was reported in the news as follows:

Pollution spread through the water, propagated for several kilometers downstream and reached the Sirinhaém river, killing fish and worrying the fishermen. Frightened by the death scenario in the waters, they reported the issue to the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA). During a surprise inspection carried out yesterday afternoon, the inspectors identified the polluting source as Usina Trapiche, located in the municipality of Sirinhaém, in the southern Zona da Mata of the state. The plant was pouring liquid from industrial sugarcane washing directly into Itapirucu river (sic), a small tributary of Sirinhaém river. The company was fined R\$ 1 million for causing river pollution and fish mortality. The company management declined to comment. However, the president of the Ethanol Industry Union in the State of Pernambuco (Sindaçúcar), Renato Cunha, said the company has all required operation licenses and mentioned the plant as a model for environmental projects. "The river is very large and there is no evidence that the pollution came from the plant. They knocked on the wrong door," he said. According to the head of supervision at IBAMA, Leslie Tavares, a channel was directing effluents (liquids) from sugarcane washing directly into the river. (Sugar mill fined R\$ 1 million, *Diário de Pernambuco*, October 31, 2009).

The administrative proceeding was dismissed due to an administrative decision rendering the report void. Such annulment took place under the allegation of non-fulfillment of the requirement established by Decree No. 6,514/2008, article 61, sole paragraph – namely, that the technical report must indicate the extension of the damage resulting from the infraction. According to the judging authority, Technical Report No. 001/DICOF/2009 did not effectively establish the dimension of the damage, which would be an incurable defect,

thus voiding the notice of infraction.

CURRENT ENVIRONMENTAL PERCEPTION OF LOCAL RESIDENTS ABOUT THE IMPACTS AFFECTING THE SIRINHAÉM RIVER ESTUARY

The survey indicated that over 78% of interviewed fisherfolk considered that their right to water had been affected by the company: out of 41 fisherfolk interviewed, 33 answered yes and only 8 answered no. Even those who did not see themselves as directly affected admitted the local impact of degradation and informed that they fished on deep waters; and all 41 unanimously affirmed that such impact results from vinasse pouring by the plant. In the words of fisherman José Custódio¹³²:

About that business of river fishing, fishermen are harmed by the plant. They drop a lot of vinasse. When summer comes, the carrion here on the shore is made of dead fish. Fishermen who remain in the river are deeply affected. [...] And the river is dead, it gets really empty, there is nothing there.

In the same vein, the president of Z-6 Fishing Community in Sirinhaém, Ronaldo¹³³, comments on river pollution: "Here, have you seen how the water was? They begin to drop their products there. And everything dies, nothing remains. Crab, pupperfish, small fish."

In addition to vinasse, fishermen have reported that around May and June there is also dumping of pesticides into the river due to the inadequate washing of the containers where the poison is stored. This is compounded by the fact that the company plants sugarcane up to the riverbank or the mangrove shores (as a result of another environmental damage committed by it, the removal of riparian forests), which facilitates the seeping of pesticides into the river.

VINASSE POURING AND ITS IMPACTS ON THE LIVES OF FISHERWOMEN

While conducting the survey, we also noted that the contamination of the river has been af-

¹³² Interview with local fisherman José Custódio, in September 2015, in the municipality of Sirinhaém.

¹³³ Interview of Ronaldo, president of the Fishing Community, in 2015, in Sirinhaém, state of Pernambuco.

fecting, in particular, the lives of fisherwomen. However, since there are no specific details about the impacts on women, we sought, in the present Report, to shed light on those in order to give them due prominence and allow the generation of specific remedies.

According to Arlene Maria da Costa, artisanal fisherwoman and member of the Z-6 Fishing Community in Sirinhaém, 50% of the members of this Community are women. This percentage is roughly equivalent to 800 female members working in the municipality's fishing environments. They are the majority among those who fish on the mangroves and on the Sirinhaém river estuary.

It should be noted that the two main fishing environments in the municipality of Sirinhaém are the sea and the Sirinhaém river estuary. Deep sea fishing is carried out by small boats that enter the sea to catch marine species, such as lobster. Often such fishing expeditions can extend for days on the open sea. On the other hand, fishing on the estuary and the mangrove consists in the collection of carib pointed venus, mangrove tree crab, crab, stout tagelus, blue land crab, among others, as well as the fishing of mullet, catfish, common snook, etc.

In Sirinhaém, deep sea fishing is carried out mostly by men, while fishing on the estuary and the mangrove is performed by a more significant number of women. All fisherwomen interviewed during the survey agree that the division by gender in these fishing modalities occurs because, historically and culturally, the responsibility for domestic activities falls on women. Since the tasks of caring for the household and the family lie predominantly on women, they cannot leave their homes for days at a time, as required for deep sea fishing.

Thus, in their effort to balance the productive and reproductive dimensions of life, women view the mangroves as a fundamental space for their existence and that of their family. It is where most fisherwomen in Sirinhaém obtain some income to complement or fully provide for the sustenance of their household.

As it turns out, in Sirinhaém the mangroves and the river estuary are also the areas most affected by the pouring of vinasse arising from sugar and ethanol production. There are several reports by artisanal fishermen and fisherwomen in the municipality about the constant

presence of vinasse that is directly dumped into the mangroves. Out at sea, vinasse arrives in dissipated form and its effects are not so deeply felt by the fishermen. "On the high seas, the syrup [vinasse] does not hold, it is more in the river," says Marcos Ferreira, a 50-year-old fisherman in Sirinhaém.

In the conducted interviews, there is a unanimous perception that women are mostly affected by vinasse pouring in Sirinhaém. Some testimonies reveal the seriousness of the situation: "When the syrup drops, all the fish and crab die, so it gets very difficult."

I usually fish crab and mangrove tree crab. I fish since I was 12. I set lots of fish traps with my father. I was born right here, I am 54 years old and I have four children. What really hurts [fishing] is the syrup they drop into the river. It comes from the plant. When the syrup drops all the fish and crab die, so things get very difficult. The worst period is early summer, when they keep shaking the syrup. The only [bad] thing for me is the syrup, because I like to catch crab, but with mill owners nobody wins. Who wins with mill owners? (Francisca Tereza, fisherwoman, 54 years old, Barra de Sirinhaém, state of Pernambuco).

To give you an idea, in this season, when the plant is not working, you can see crab all around this wharf. But when they pour the syrup... you see lots of weakened crab around this wharf, all of them dying. It is a sad thing to see. [...] Around September or October they are already dying. The smell is awful, even the water from our wells stinks. I'd like you to see how the water stinks when you turn the faucet to take a shower... the water in the wells, the water coming from the tap, all is contaminated. [...] When they start dropping [vinasse], there are lots of crab and fish dead around this wharf. The fish all floating belly up. (Virgínia Melo, fisherwoman, Barra de Sirinhaém, state of Pernambuco).

We fish more here [on the river] because to go to open seas you must take the boat and sometimes you spend up to eight days away. Women and those who fish with nets are most affected by the syrup [vinasse]. In Barra de Sirinhaém, most women are shellfish gatherers. (Valda Oliveira, fisherwoman, Barra de Sirinhaém, state of Pernambuco).

When asked about the decline of fish and

crustacean populations in the mangroves and in the river, Valda says it is “weak for fish” and adds:

It happens because there is a syrup that comes down and kills everything, kills the crab, kills the shellfish. When we go there, we see the shellfish already open, all dead. [...] Crab and fish, lots of common snook, there are lots of common snook on the beach when the syrup flows down. They are dead on the beach. Catfish too, they can't stand it, they all die. And we don't have charru mussel anymore. I think all charru mussel have died on account of the syrup. [...] Since vinasse is particularly damaging to crab and shellfish in the river, and fishing on the river is done mostly by women, women are most affected. [...] Every year we have this syrup.

Pollution of the fishing environment caused by vinasse pouring was the main cause of complaints and formal reports for 100% of the 34 (thirty four) interviewed fisherwomen. During our meetings and discussions with women, we found that such problems deeply affect their search for the much desired financial autonomy. In many cases, their only solution is gathering in groups to fish in other municipali-

ties of the Pernambuco coast. Even so, the challenges remain, as pointed out by a father and husband of fisherwomen:

The company never stopped dropping that syrup into the river. You look at the river, all is fine, when you look [again], there comes that syrup killing everything. Everything dies, all the fish die, because of the syrup. All of a sudden everything is dying, it is a shame. The women left today for Itapissuma [at a distance of 108 km from Sirinhaém]; when they get there, they see the fish jumping, it is a blessing. Two Kombis left today to fish in Itapissuma, Itamaracá, Abreu e Lima. Here we have the sea, the mangrove, but it is pointless. It is over. At 3 in the morning, the Kombi is getting ready to leave. It gets there around 8 or 9 o'clock. Sometimes there is an accident... Women pay R\$ 35.00 each to go to Itapissuma. There they also have to rent a canoe. When they catch fish, they can cover these expenses. It takes 5, 6, 7 kg. It is possible, but what if the tide doesn't help? It's a loss. Because they have to pay. The owner of the Kombi does not want to lose. (José Ricardo, fisherman, Barra de Sirinhaém, state of Pernambuco).

In addition to the impact to financial autonomy of women, water pollution also causes

FISHERWOMAN MARIA NASARETH IN THE MANGROVE. FISHERWOMEN ARE IN LARGE NUMBERS IN THE MANGROVE AND ESTUARY. PHOTO: CPT NE 2



another problem that is, however, almost invisible to fisherwomen. Several shellfish gatherers who still rely on the fishing activity in the Sirinhaém river have contracted diseases due to their continued contact with polluted water. In addition to skin diseases, the most common complaints are gynecological diseases caused by high water pollution levels. These women spend several hours each day in a squatting position to collect crustaceans and mollusks, with their genitalia in constant contact with pollution in the river.

To avoid diseases, the fisherwomen check first if the plant has poured vinasse into the river and, if so, they don't enter the river and stop fishing. Fisherwoman Andrea da Costa describes the consequences of contact with water during the sugarcane milling and vinasse pouring periods: "You get all scratchy. Your skin becomes grayish, look, quite grayish. It's different. 'Don't go, folks, the water stinks so much.' People keep telling us not to go."

Fishermen also acknowledge the seriousness of the problem. According to Antônio Mário,

This is a much more serious case than we can imagine. This vinasse that is being poured into the river by Usina Trapiche is killing women who need to sit down on that water, that polluted mud, to seek their livelihood by catching shellfish. I have no words to describe my sadness.

During a visit to the health center in Barra de Sirinhaém, we found no specialized assistance, either preventive or curative, to deal with such specific and recurring demand by the female population in the municipality. According to the nurse Luci Tenório, there is no systematic information about medical assistance related to contamination by sustained exposure to vinasse. Luci added that it is very difficult to discuss matters related to women's intimate health issues, which explains to some extent the lack of adequate information and guidance to fisherwomen.

According to fisherwoman Taiana Souza, a member of the Z-6 Fishing Community,

We have no guidance or treatment for health problems. Women are aware of the issue and we have told them that, whenever they have a problem like that, they should go see a doctor and tell him that they are fisherwomen and work like that, because they [nurses and doctors] don't ask. We do all that to see if they diagnose something related. In the old days, women used gas oil to avoid mosquitoes. Now the use of gas oil has decreased because they fish wearing pants and long-sleeved shirts... However, in their parts [genitals], there is nothing, it is whatever God wants...

When asked about the decline of fish and crustacean populations in the mangroves and in the river, Valda says it is "weak for fish" and adds: It happens because there is a syrup that comes down and kills everything, kills the crab, kills the shellfish. When we go there, we see the shellfish already open, all dead. [...]"

Still according to Taiana, there is strong demand for better State health assistance to fisherwomen and to have "diseases that affect those women considered as work-related illnesses." However, the fisherwoman notes, the only way to have the rights of these women

ensured is organized and collective struggle to strike at the root of all these problems.

IMPACT ON THE POPULATION OF SIRINHAÉM AS A WHOLE

It is not only the community of fishermen and fisherwomen that is affected by pollution, but the whole population of Sirinhaém, whose houses recently have been supplied with vinasse-contaminated water, since the water treatment and distribution plant is located downstream from the vinasse poured by the plant into the river, according to the respondents. Thus, the population has been using this water, which is completely unfit for consumption, for routine activities like personal hygiene and food preparation.

In November 2015, the Pastoral Land Commission filed a new complaint with the Prosecutor's Office in Sirinhaém about the water situation, with the aim of once again give warning about vinasse pouring into the Sirinhaém river and the ensuing mass mor-



FISHERWOMEN CROSS THE RIVER TO GO TO WORK IN THE MANGROVE. SIRINHAÉM/ 2015. PHOTO: CPT NE 2

tality of aquatic species. This complaint led to an investigative procedure which included the testimonials of several residents in the municipality of Sirinhaém, all of them complaining that the water was unfit for consumption.

Orlando Silva Alves, a resident of Sirinhaém, said

That he had already contacted the Pernambuco State Regulation Agency (ARPE) (ticket 201517354, on October 27, 2015 at 9:25 AM, service desk agent Hamilton) and proven that sugarcane mill vinasse (from Trapiche and other plants) was being poured into the Sirinhaém river; That he had called the 0800 toll-free number of COMPESA (Pernambuco State Sanitation Company), which also verified the problem caused by the plant (ticket 20151017058624, service desk agent Larissa); [...]; That, when he puts water to boil, the rice becomes yellow; That the water is rotten and unfit for human consumption; That he has no debt and never had with COMPESA, but their water is un-

fit and he is being forced to buy mineral water¹³⁴.

Another resident in the region, who requested that his data remain confidential, also complained to the Pernambuco State Prosecutor's Office about poor quality of water:

I wish to report that we have bathing with and drinking water of very poor quality. I don't know that is happening, but, according to COMPESA, vinasse is being poured into the Sirinhaém river, which supplies the city, and the population is being harmed. They informed me that they had already notified the State Agency for the Environment and no measures had been taken. [...] The smell is awful and the water is murky and slimy¹³⁵.

Yet other residents report that they are getting sick because of water pollution. This is the case of Maria Glória Alves Tavares¹³⁶, who states:

134 Notice of Fact No. 2015/2127946, p. 15.

135 *Ibidem*, p. 19.

That the problem lies on the water; That since this problem with the water began, she went to see a doctor; That he told her that it would be a fungus; That this was two months ago; [...] That the Sirinhaém water is only getting worse and smells of carrion.

Her husband adds:

That the plant (Trapiche) has been throwing waste into the water, which harms everyone; [...] That he had an itch, but it went away when he stopped using the water; That he is not using the water for any purpose.

Still in the same administrative procedure, a statement from COMPESA was added in which the company informs that

Between October 22 and 23 there was an irregular discharge of vinasse from ethanol and sugar plants located in the Sirinhaém river basin. The water extracted from the river [...] showed strong odor and high coloration, causing dissatisfaction among the population served. This is a recurring fact and COMPESA always notifies the regulatory agencies (State Agency for the Environment and IBAMA), which are responsible for inspect-

ing and enforcing the penalties established by law for environmental crimes¹³⁷.

SIRINHAÉM RIVER WATER ANALYSIS

The Pastoral Land Commission looked for ways to attest that the river was effectively being contaminated. To this end, the Pernambuco Technology Institute (ITEP) was hired to analyze the quality of water from the Sirinhaém river by applying physical, chemical and biological assays to five samples collected at distinct points along the river, all of them downstream from the place where, according to the fishermen, the plant pours sugarcane vinasse.

The study found an almost null oxygen content (hypoxia) during the low tide, with a value as low as 0.09 mg/L at one of the sampling points, which is much lower than the value recommended by Resolution No. 357/05 of the National Environmental Council (CONAMA)¹³⁸ ¹³⁹, “thus indicating the possibility of fish and crustacean mortality from anthropic factors (domestic and industrial effluents) during periods of increase of organic load in the

¹³⁶ Ibidem , p. 28.

¹³⁷ Ibidem , p. 17.

¹³⁸ CONAMA'S Resolution No. 357/05, in its article 21, subparagraph I, clause c, establishes that dissolved oxygen (DO) in any sample must not be less than 5 mg/L.

¹³⁹ With the exception of point P5 (whose sample was collected during the morning tide, when the level of dissolved oxygen increases), the values found in all other samples were far below the 5,0 mg/L recommended for Class 1 brackish water rivers (article 6, subparagraph II, CONAMA Resolution No. 357/05).

IN NOVEMBER 2015, SIRINHAÉM FISHERMEN WITNESSED A FISH SLAUGHTER CAUSED BY SUGAR CANE RESIDUE DISPOSAL (VINASSE) LINKED TO TRAPICHE MILL. PHOTO: CPT NE 2



estuary.”¹⁴⁰ The ITEP report also mentioned a previous study from the same researcher, Silva (2009), who found values of total hypoxia (0.0 mg/L) during low tide in February 2005.

It must also be stressed that the Biochemical Oxygen Demand (BOD) found was more than twice the value established by Resolution No. 020/86 of the National Environmental Council for brackish waters (article 5, subparagraph g). BOD is the amount of oxygen required for the stabilization of biochemically oxidizable materials, which indirectly reflects the organic matter content and, for this reason, is a key parameter to characterize the pollution level of a water body.

Additionally, the Chemical Oxygen Demand (COD) test, which measures oxygen consumption during chemical oxidation of organic matter, is also an indicator of pollution, as it shows organic matter content in the water. COD values for the samples ranged from 10.8 mg/L at station P4 to 89.0 mg/L at station P1, with an average content of 45.15 mg/L. The increase of COD concentration in a body of water, as observed in the analyses, is due mainly to wastes of industrial origin.

In this sense, the recorded levels of BOD and COD, together with dissolved oxygen (DO) values next to zero at low tide, as well as other indicators present in the study, such as the presence of dissolved nitrogen nutrients and phosphorus (the latter exceeding the recommended limit at station P3), indicate that the Sirinhaém river is going through an eutrophication process of anthropogenic origin.

In view of repeated complaints from fishermen and fisherwomen (who are keen observers of the estuary), there are strong

indications that this river eutrophication phenomenon is being caused by vinasse pouring by the company, according to the respondents.

CLASSIFICATION AS ENVIRONMENTAL CRIME

Such polluting practices are so serious that they can be classified as environmental crimes under Brazilian criminal law. Law No. 6,938/81 on the National Environment Policy prescribes, in its article 15¹⁴¹, a penalty of one to three years imprisonment plus fine for placing human, animal or plant safety at risk, a sentence that can be doubled in case of 1) irreversible damage to fauna, flora, and the environment; 2) grievous bodily harm; and 3) pollution resulting from industrial activity.

On its turn, Law No. 9,605/98, dealing with environmental crimes, also foresees some typical punishments for degradation of water resources and mortality of aquatic species:

Article 33. Causing, by effluent emission or loading with materials, the mortality of aquatic fauna specimens existing in rivers, lakes, ponds, lagoons, bays or Brazilian jurisdictional waters:

Penalty - one to three years imprisonment, fine, or both cumulatively.

Article 54. Causing pollution of any kind in levels that result or may result in damages to human health, mortality of animals or significant destruction of flora:

Punishment - one to four years imprisonment and fine.

Paragraph 1 - If the crime is unintentional:

Penalty - six months to one year imprisonment and fine.

Paragraph 2 - If the crime:

I - renders an urban or rural area unfit for human

¹⁴⁰ Technical Report No. 128628, OS 384/2016 – Análise da qualidade da água no rio Sirinhaém em cinco pontos amostrais (Sirinhaém river water quality analysis at five sampling points), p. 30..

¹⁴¹ “Article 15. Any polluter who exposes human, animal or plant safety to risk or exacerbates an already existing dangerous situation shall be subject to a penalty of imprisonment for 1 (one) to 3 (three) years and a fine of 100 (one hundred) to 1,000 (one thousand) MVR [Minimum Reference Value].” (Wording as per Law No. 7804 of September 18, 1989)

Paragraph 1 - The penalty shall be increased up to double if:

I - the following occurs:

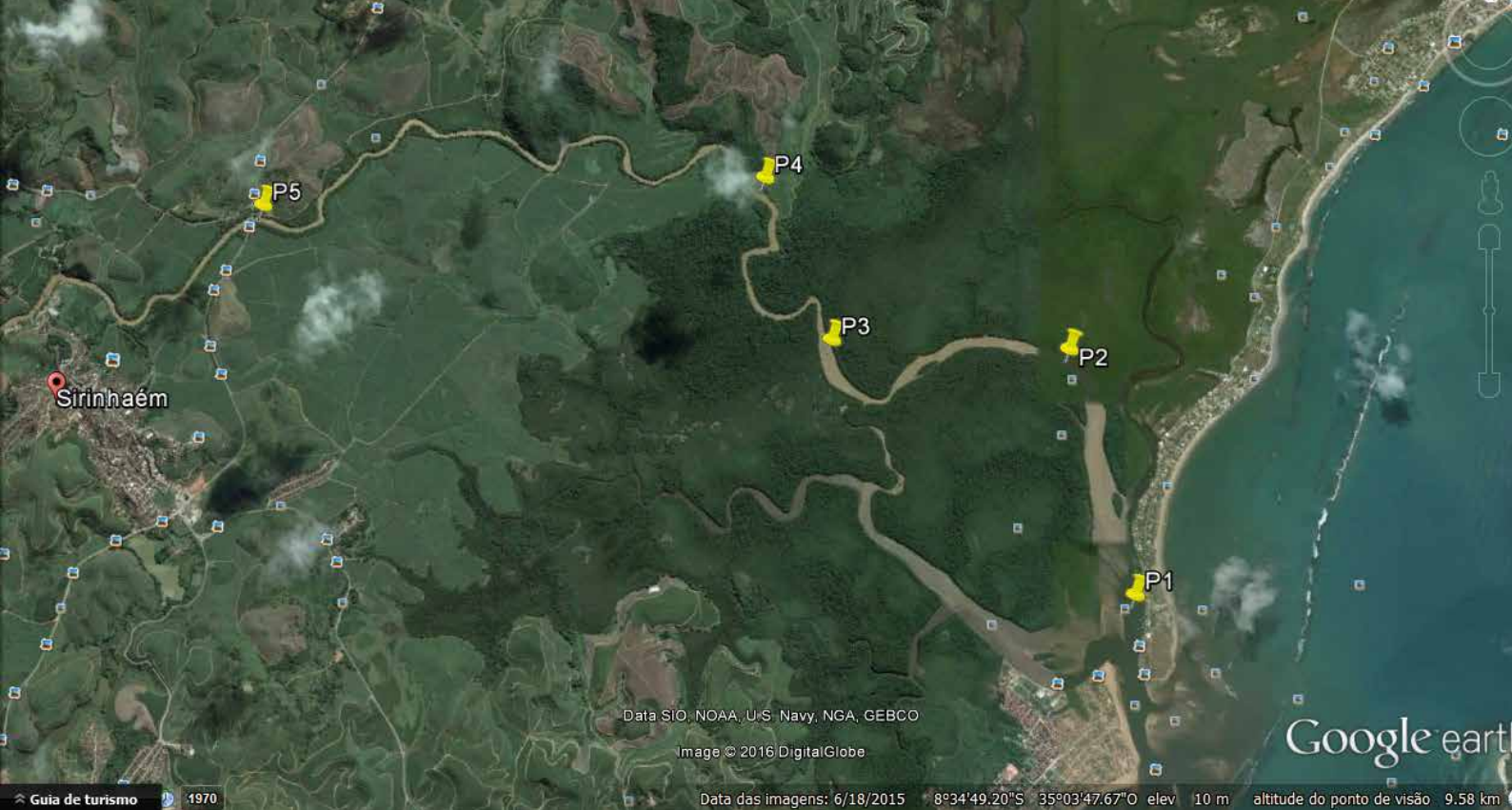
a) irreversible damage to fauna, flora and the environment;

b) grievous bodily harm;

II - the pollution is caused by industrial or transport activity;

III - the crime is practiced during the night, on a Sunday or on a holiday.

Paragraph 2 - The same crime is incurred by the competent authority that fails to adopt measures aimed at preventing the practice of the conducts described above.”(Wording as per Law No. 7804 of September 18, 1989)



LOCATIONS WHERE WATER SAMPLES WERE COLLECTED FOR LABORATORY ANALYSIS BY ITEP.

occupancy;

II - causes air pollution that leads to removal, even momentary, of the inhabitants from the affected areas, or causes direct damage to the health of the population;

III - causes water pollution that makes it necessary to interrupt public water supply to a community;

IV - impedes or prevents public use of beaches;

V - occurs via release of solid, liquid or gaseous waste, debris, oils or oily substances in disagreement with the demands set forth by laws or regulations:

Penalty - one to five years imprisonment.

Paragraph 3 - The same penalties provided for in the preceding paragraph are incurred by anyone who fails to adopt, when so required by the competent authority, precautionary measures in case of risk of serious or irreversible environmental damage. (emphasis added).

It should be noted that under the regulatory hypothesis of “Causing pollution of any kind in levels that result or may result in damages to human health, mortality of animals or signif-

icant destruction of flora”, the penalty may be increased to up to five years if the crime “causes water pollution that makes it necessary to interrupt public water supply to a community”, or “occurs via release of solid, liquid or gaseous waste, [...] in disagreement with the demands set forth by laws or regulations.”

The state of Pernambuco, through state Law No. 7,541/1977¹⁴², defined environmental pollution as an alteration of physical, chemical or biological properties of the environment caused by any form of energy, or solid, liquid or gaseous substance, or combinations of elements, released or emitted at levels capable of directly or indirectly jeopardize the health, safety and well-being of the population; create adverse conditions for social and economic activities; cause relevant damage to the flora, fauna or other natural resources (article 2). It establishes that the release or dumping of pollutants into the waters, the air or the soil (article 3) is prohibited, being the offenders subject to the penalties of fine¹⁴³, interdiction of the polluting source, reduction or suspension of industrial activities, among others.

¹⁴² Rules on the prevention and control of environmental pollution and establishes disciplinary standards of the species.

State Law No. 12,984/2005, on the State Water Resources Policy, also defines as an infraction to the rules of usage of water resources the release of prohibited solid waste and liquid effluents into surface or underground water bodies (article 65, subparagraph V) and states that the practice of infractions will subject the offender to penalties (article 66), such as: suspension of sale and/or manufacture of the product, total or partial suspension of activities, suspension or cancellation of concession, loss or restriction of incentives and fiscal benefits granted by the Government, loss or suspension of participation in financing lines at official credit institutions, redress of environmental damage and prohibition to sign contracts with the public administration. Paragraph I of the same article also sets forth that, whenever the infringement causes damage to the public water supply service, risks to health or to life, perishing of goods or animals, or losses of any kind to third parties, the fine to be applied shall never be lower than half the maximum established value.

Nevertheless, the State Agency for the Environment has remained inert throughout these years, leaving without protection an ecosystem that is so critical to river and marine biodiversity and, at the same time, so fragile and difficult to regenerate. Out of all situations involving release of this toxic effluent (as observed and reported by fishermen and submitted to the competent agencies), we have identified the initiation of only one administrative proceeding^{144 145}, already mentioned above, to establish the responsibility for such environmental damages.

POLITICAL INTERFERENCE AND ADMINISTRATIVE OMISSIONS

BY THE STATE AGENCY FOR THE ENVIRONMENT (CPRH)

It is widely known that the management of environmental agencies is subjected to strong political interference to prevent them from acting in ways that could jeopardize “economic development”. Such political environment imposes some limitations (as well as some selectivity with regard to the affected parties) on the issuance of notices of infraction. Even those that are actually issued do not produce noticeable legal consequences to the perpetrators of environmental offenses: as a rule, they manage to remain unharmed in an environment characterized by political interference from congressmen and lobbyists linked to the companies.

At the same time, social control and participation in environmental licensing procedures is virtually non-existent, with strong obstacles to obtain even basic information about licensing procedures, such as those faced by the legal counsel of the Pastoral Land Commission. In the national scenario, the strengthening of the ruralist bench in Parliament has further boosted the unbridled expansion of agribusiness, which puts pressure on the government to promote legislation changes in order to liberalize and undermine the environmental licensing process as envisaged in the current legislation. In such an adverse political atmosphere, some environmental agencies are inhibiting their administrative action and becoming complicit with many of the offending companies.

Given this situation of inaction and impunity, fishermen and fisherwomen feel anger and disbelief at the way inspection agencies work, as can be grasped from the words of Jorge da Praia, from the Ipojuca Fishing Community:

We have the State Agency for the Environment here, but it doesn't work for the

143 As regards dumping of liquid effluents arising from sugar and alcohol agroindustrial activities, the fine shall vary from 100 to 500 times the highest National Reference Value valid at the date of the infraction, plus the value of the provision of services corresponding to the technical work developed by the State Agency for the Environment, equivalent to 50% of the amount of the fine imposed.

144 Notice of Infraction No. 0209/2001; in spite of our attempts, no information could be obtained about its present status.

145 The State Agency for the Environment informed us that they could not provide a list of notices of infraction and administrative proceedings pre-2009 because those were stored in an older computer system, to which they did not have access. We gained knowledge of Notice of Infraction No. 0209/2001 only because it was mentioned in some documents in which the present study was based.



SIRINHAÉM RIVER AND THE MANGROVE.

PHOTO: CPT NE 2

small ones, just for the benefit of the powerful. And we are small, just a fishing community that I represent. When we report that some plant poured syrup, they don't come to the community and ask us to take them where the dump is happening, where the fish are dying. No, the first place they go to is the plant office.

VIOLATIONS OF THE RIGHT TO FOOD

The way a people feeds and acquires its food is part of their culture and an expression of identity. For a traditional community, natural resources, which are a source of food, also represent shelter, a source of work, the basis of social, cultural and religious practices, and a key factor for their social reproduction. Therefore,

to safeguard the right to food of a traditional community is to allow them to experience their own identity.

For all interviewed former residents, one of the main impacts felt in the conflict with Usina Trapiche was in their right to adequate nourishment. Whereas before the conflict the families found food at their doorstep, after leaving their traditional territory they went to live in crowded conditions in the suburbs and some are even starving.

At present, many former residents no longer fish, and none have lands to plant or space to raise small animals as before.

THE CHOIR OF OUTCASTS

I deeply felt having to leave the islands. I still miss the island. Things over there were always favorable to me. It was not like we are living here, because there I could raise animals, I could plant. And there was fish that I didn't have to buy, it

was everything. Everything. There were fruit, I always had my fruit. And there were catfish, and crab, there was everything, right? I could catch fish with jereré [hoop net], with long line, with flat net... everything has changed now, because I no longer do what I used to do. Here we only have things that must be bought. Most times we don't have money. When we get paid, there are many bills to settle. What if we don't know how to save money? We will be left with nothing. (Rosa da Silva, former resident of the Sirinhaém river islands in the state of Pernambuco.)

What I felt the most was losing my land. Even after I left, I spent six months there making flour. Six months. Then the man knocked everything down while we were making flour. We lost a lot of things. I lost 66 heads of chicken, not counting the duck. I lost everything. Here it is not the same. Here we are tied down. There I would set a crab trap, I would prepare fish traps, I had my land crab nursery, I made my own flour, I fished. It was a pretty good life. (Josefa dos Reis, who lived 52 years on the islands of Sirinhaém river, in the state of Pernambuco.)

I remember everything from the islands. It was fun there. Here, today, it is just sad. Here, today, it is all about money. Money to me is transitory, fishing is the future, it is paradise to me. If I am hungry now, I go to the mangrove, place a trap, catch a land crab, eat it with my family. There I can provide for my family. They want to make the poor worse than a dog. Many people want to exploit us, humiliate us, but I won't accept that. (Pedro Pereira Júnior, former resident of the islands of Sirinhaém River, in the state of Pernambuco.)

I wish I was still there, it was a place of belly full, it was where I earned my living. Because there we lived on the islands, a place of crab, land crab, moray eels, fish, we had everything. We were close there. But I couldn't stay there by myself. Today is it all empty, if you go there... it is all scrubland. (Romero Vale, fisherman and former resident of the islands of Sirinhaém river, in the state of Pernambuco.)

“What I felt the most was losing my land. Even after I left, I spent six months there making flour. Six months. Then the man knocked everything down while we were making flour. We lost a lot of things. I lost 66 heads of chicken, not counting the duck. I lost everything. Here it is not the same. Here we are tied down. There I would set a crab trap, I would prepare fish traps, I had my land crab nursery, I made my own flour, I fished. It was a pretty good life.” Josefa dos Reis, who lived 52 years on the islands of Sirinhaém river, in the state of Pernambuco.

I lived there because I had fish, I had potatoes, I had flour, I had corn, I had cassava, and today I have none of this. Today everything depends on my minimum wage, and I can't have more than that. Now I have to walk two kilometers to fish. I have to take a hand cart with a casting net, a straight net, a fish basket, fishing line, I have to travel those two kilometers. When I get there, I take the boat to fish. When I come back from fishing, I arrive by boat at 8 o'clock at night, and I have to walk back here where I live, I get home around 11:00 PM or midnight. So, this is the result: I can no longer keep living like this. (José Luiz Santana, fisherman and former resident of the Sirinhaém islands.)

Many people who got an offer from the plant to leave the islands were not able to earn their living in the city. That's because the city has no fishing, they can't plant in the city. They are not prepared to work in industry, there aren't even jobs available.

Fishermen lived with their bellies full there. They had their subsistence farming. Many islanders came to town, many faint from hunger, their children go to school to eat lunch. They are unable to live in the urban area, because they are not used to it. They are good at fishing. (Maria Aparecida de Azevedo, municipal and state teacher in the municipality of Sirinhaém for 26 years and member of social pastoral groups of the Catholic Church.)

THE BASIC RIGHT TO FOOD

The right to food is enshrined in article 25 of

the Universal Declaration of Human Rights of 1948¹⁴⁶ as a universal human right, accepted and applicable in all countries of the world. Its definition was enlarged by other provisions of international law, such as the International Covenant on Economic, Social and Cultural Rights of 1966 and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1998.

In Brazil, it has the status of a social right, as provided for in article 6 of the 1988 Federal Constitution¹⁴⁷. However, this legal provision does not guarantee its application in the daily life of the population.

Right to food can be understood as regular, permanent and unimpeded access by all persons to food and resources, such as employment or land, to ensure the continuity of such access, while respecting the cultural, social, economic, climatic and ecological conditions of each person, ethnicity, culture or social group.

For this reason, the right to adequate nourishment has been understood in a broader way, as set out in General Comment No. 12, adopted in 1999 by the Committee on Economic, Social and Cultural Rights of the United Nations¹⁴⁸. According to this document, more specifically its item no. 6:

The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.

Associating the guarantee of the right of traditional peoples to food with the protection of their cultural identity, Law No. 11,346/2006, which created the National System for Food and Nutritional Security (SISAN), sets forth in its article 4 that food and nutritional security comprises, among other aspects:

III - the promotion of health, nutrition and food to the population, including specific population groups and socially vulnerable populations;

IV - the assurance of biological, sanitary, nutritional and technological quality of food, as well as its good use, by stimulating healthy food and lifestyle practices which respect the ethnic and racial diversity of the population.

A busca pela segurança alimentar e nutricional
The search for food and nutritional security is, moreover, one of the guiding principles of the National Policy for Sustainable Development of Traditional Peoples and Communities, as set forth in Decree No. 6,040/2007¹⁴⁹. There is also a concern by the National Food and Nutritional Security Council (CONSEA) to ensure the food sovereignty of traditional peoples, based on respect to traditional forms of food production and consumption¹⁵⁰.

In the state of Pernambuco, state Law No. 13,494/2008 states that “it is a duty of the state government to respect, protect, promote, provide, inform, monitor, supervise and evaluate the fulfillment of the human right to adequate food, as well as to ensure the mechanisms for their enforcement” (article 2, paragraph 3), comprising, among others:

¹⁴⁶ “Article 25 - Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

¹⁴⁷ “Article 6 - Education, health, food, work, housing, leisure, security, social security, maternity and childhood protection, and assistance to the destitute are social rights, in the form of this Constitution.”

¹⁴⁸ Body in charge of monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights, promulgated in Brazil through Decree No. 591/92.

¹⁴⁹ “Article 1 - The actions and activities aimed at achieving the goals of the National Policy for Sustainable Development of Traditional Peoples and Communities shall be intersectoral, integrated, coordinated, systematic and based on the following principles: (...) III - food and nutritional security as the right of traditional peoples and communities to have regular and permanent access to quality food, in sufficient quantity, without compromising their access to other essential needs, on the basis of food practices that promote health, respect cultural diversity, and are environmentally, culturally, economically and socially sustainable.”

¹⁵⁰ News: Consea defende soberania alimentar de povos e comunidades tradicionais. Available at: <<http://www4.planalto.gov.br/consea/comunicacao/noticias/2014/consea-defende-soberania-alimentar-de-povos-e-comunidades-tradicionais>>. Access on: April 13, 2016.

III - promotion of health, nutrition and food to the population, including specific population groups, by providing programs and actions of social inclusion, with distinctive procedures specifically aimed specifically at indigenous peoples, extractive workers, riverine communities, artisanal fisherfolk, mixed-race Indians (“caboclos”), black populations, traditional black communities (“quilombolas”), other traditional peoples and communities, and socially vulnerable populations (article 4, paragraph II).

FROM A LIFE WITH “BELLY FULL” TO A LIFE OF MISERY AND HUNGER

Ao longo do processo de expulsão, as famílias Throughout the expulsion process, the families in the Sirinhaém islands were surrounded by a seemingly altruistic and environmentally conscious discourse from Usina Trapiche, which justified their eviction actions on an alleged concern to grant a more dignified life to these families. “We fail to see why social movements, politicians and government agencies defend the permanence of these people on the islands, where they live in sub-human conditions [...]. The plant doesn’t mean these people any harm”, said Usina Trapiche’s administrative manager Mário Jorge Seixas in a news story published in 1998 by a widely-read newspaper in Recife¹⁵¹.

According to fishermen and former residents of the Sirinhaém islands, the plant had promised masonry houses in the city, access to electricity and other facilities to the families. Such promises also included the assurance that their fishing activities in the region would not be prohibited or hindered. However, life away from their territory did not bring the improvements or the “dignity” that had been promised by the company. Far from it.

While they lived without conflict on the Sirinhaém islands, there was plenty of work and food, with fishing, cultivation of crops, rearing of small animals and fruit gathering. However, nothing of what was then available can now be used as a means of livelihood. Former residents are now forced to buy everything they used to

produce by themselves, which increased their cost of living and impoverished that population. Even fishing is not the same as before, when they had several options at their disposal, such as gathering crustaceans on the islands themselves.

It is worth noting that the impact to proper nutrition started to be felt by these families when the conflict for the territory began, with the destruction of their crops for consumption by plant security guards as a strategy to force them out of the islands, as mentioned in some reports. This was compounded by the high mortality of fish caused by the contamination of the river with vinasse, which significantly decreased their fishing output.

After expulsion from the territory and transference to the outskirts of the city, their fishing activity was also considerably hindered by distance. In many cases, families who lived on the islands are forced to walk long distances on foot, up and down steep hillsides, or to pay steep prices for alternative means of transport, as there is no public transport service in the suburbs where they are now living. Before, those same residents used their own rafts to cross the river and reach Barra de Sirinhaém, where they had access to health and education.

Urban violence, to which the families now living on the outskirts of the Sirinhaém municipality are subjected, also has impacts on nutrition. The examples below illustrate this dramatic relationship. A fisherwoman and former resident on the islands, who asked not to be named, informed the Pastoral Land Commission that families now live in fear of violence and several fishermen had their fishing income stolen while returning home. In addition, former residents who used to moor their boats in their backyard when they lived on the islands now have to dock them in unsafe places, where they are often stolen. Fisherwoman Rosa da Silva said she had already been robbed and had her raft stolen three times: “I got discouraged and decided not to get another, because if buy a new one with my work and people take it away, it is better to give up. I already had three rafts stolen.”

Furthermore, fish mortality caused by vi-

151 “Disputa por ilhas ameaça pescadores” - Jornal do Commercio, December 20, 1998.



THE CÓVO (TRAP FOR FISHING IN THE MANGROVE)
PHOTO: CPT NE 2

nasse pouring, according to the interviewed fishermen, affected both their access to food and the economy of the community, which is based on artisanal fishing, as revealed by the testimony of Jorge Cadêncio, a fisherman in Barra de Sirinhaém:

There are also river fishermen who use casting nets to catch mullet, mojarra and other fish species to provide for their families. And there came a time when they became disoriented, not knowing what to do, because all the fish had ended due to this terrible pollution that has been going on for many years.

In view of this whole situation, IBAMA acknowledged that

The burden of changes arising from their exit from the islands is felt to this day, particularly by those who carried out artisanal fishing and complementary activities, such as cultivation of subsistence crops, fruit gathering and animal rearing. The workspace for this category was disrupted, causing changes in their habits, customs and ways of life, which are traditionally linked to the river estuary (IBAMA, 2008).

Thus, the community's traditional lifestyle was violated through the impacts on the right to adequate food, since the traditional mode of food production had to give way to the need to purchase food. This shows that the right to food, the right to work and the right to housing are closely linked. This is even more evident in communities that feed on part of the direct product of their work, as is the case of the fishing community.

FOOD SOVEREIGNTY AND ENVIRONMENTAL RACISM

To speak about food sovereignty is to speak of self-determination and appreciation of the knowledge and techniques of traditional peoples. This implies respect and assurance of territorial rights and the right to socio-biodiversity, democratization of access to land, water, means of production, seeds and natural resources, and strengthening of local production and consumption of food.

THE FISHERWOMAN HAS BEEN EXPELLED FROM THE LAND, BUT IT REMAINS ALIVE IN HER SOUL.

PHOTO: CPT NE 2



In this connection, the expansion and overreach of agribusiness – which is based on the property of large pieces of land, environmental degradation and production of commodities like sugar and ethanol, all so present in the Zona da Mata region of Pernambuco – led to the expulsion of the population, particularly traditional peoples and communities, from rural areas. This was and still is one of the key factors for the situation of impoverishment and hunger faced by these peoples, with the impacted community of Sirinhaém as a prominent example.

To deal with realities such as these throughout the world, in recent times, social organizations and movements that fight for land and territory have been including in their demands the need to reframe the issue of access to land within the agenda of food sovereignty.

This move contributed to the approval, in 2012, of the new Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGRG) by the Committee on World Food Security (CFS) of the United Nations.

This document made it clear that improvement of governance of land tenure, fisheries and forests is critical to ensure food security. In this sense, weak governance, that allows a community to lose its rights of ownership over their houses, their land, their fishing and forestry resources and their livelihoods, may end up sentencing them to a life of hunger and impoverishment, as it is happening presently in Sirinhaém.

Despite being voluntary, such guidelines make reference to human rights and the existing obligations under international law. They

are directly linked to some international documents, such as the International Covenant on Economic, Social and Cultural Rights, which views the right to food and housing as an implementation of the right to an adequate standard of living¹⁵².

The burden of changes arising from their exit from the islands is felt to this day, particularly by those who carried out artisanal fishing and complementary activities, such as cultivation of subsistence crops, fruit gathering and animal rearing. The workspace for this category was disrupted, causing changes in their habits, customs and ways of life, which are traditionally linked to the river estuary (IBAMA, 2008).

The new voluntary guidelines approved by the CFS set the following general guiding principles for responsible governance:

States should:

1. Recognize and respect all legitimate tenure right holders and their rights. They should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from infringement of tenure rights of others; and to meet the duties associated with tenure rights.
2. Safeguard legitimate tenure rights against threats and infringements. They should protect tenure right holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law.
3. Promote and facilitate the enjoyment of legitimate tenure rights. They should take active measures to promote and facilitate the full realization of tenure rights or the making of transactions with the rights, such as ensuring that services are accessible to all.
4. Provide access to justice to deal with infringements of legitimate tenure rights. They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes. States should provide prompt, just compensation where tenure rights are taken for public purposes.
5. Prevent tenure disputes, violent conflicts and corruption. They should take active measures to prevent tenure disputes from arising and from

¹⁵² An example of this would be the first part of its article 11: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

escalating into violent conflicts. They should endeavor to prevent corruption in all forms, at all levels, and in all settings.¹⁵³

In October 2015, representatives from various organizations, social movements and communities of numerous ethnic minorities that populate Brazil met at the Keynote Meeting of the 5th National Conference on Food and Nutritional Security. Themed “Sovereignty and Food Security for the Black Population and the Peoples of Traditional Communities”, the meeting aimed at calling attention to several forms of racism that impact food and nutritional security and determine living conditions and inequalities. As a result of this meeting, a declaration was drawn up summarizing the importance awarded by these populations to food security as a key factor for their physical and cultural reproduction.

According to the document, high malnutrition rates show that changes in food habits and practices are closely linked to lack of access to land and territory and external pressure on natural resources. In this sense, it acknowl-

edges that environmental racism is of the determinant factors for food and nutritional insecurity. Environmental racism can be understood as a set of socioeconomic and environmental injustices arising from works and actions by the public or private sectors that affect vulnerable ethnic groups and populations.

In addition to the impact caused by the sugarcane plant’s actions on the way of life and access to food of the traditional community, the Brazilian government itself, through its various instances, has systematically ignored those guidelines and rules in the case of the Sirinhaém islands, thus becoming complicit with the company and unable to safeguard the basic rights to adequate food and housing.

153 Diretrizes document, p. 23-24

WOMAN HOLDING A GUAIAMUM (MANGROVE CRAB). SHE KEEPS FISHING IN THE MANGROVE EVEN IN THE CITY’S PERIPHERY. PHOTO: CPT NE 2



5

A THE STRUGGLE FOR ESTABLISHMENT OF AN EXTRACTIVE RESERVE

HISTORY OF THE SEARCH FOR REDRESS OF RIGHTS BY MEANS OF A PROTECTED AREA

In Brazil, conservation units (CU) of the type Extractive Reserve are provided for in the National System of Nature Conservation Units (SNUC), created by the Brazilian Government through Law No. 9,985, of July 18, 2000. In addition to the Extractive Reserve category, the SNUC establishes criteria and standards for the creation, implementation and management of eleven additional types of protected areas. According to the same document, creation of these areas depends on a simple administrative act by the executive branch. In the case of federal protected areas, this is done by means of presidential decree.

“Protect natural resources that are necessary for the subsistence of traditional populations, respecting and valuing their knowledge and their culture, and promoting them socially and economically”, is one of the main objectives of the System, according to the Ministry of the Environment.

According to the SNUC, in its article 18,

Extractive Reserve is an area used by traditional extractive populations, whose subsistence is based on extractive activities and, complementarily, on subsistence farming and rearing of small animals, with the basic objectives of protecting the livelihoods and the culture of such populations and ensuring the sustainable use of natural resources inside the unit.

According to the law, an Extractive Reserve, or “Resex”, pertains to the public domain, with usage granted to traditional extractive populations, and must be supervised by a deliberative council, chaired by the agency that is responsible for its management and formed by representatives from public agencies, civil society organizations, and traditional populations residing in the area¹⁵⁴.

¹⁵⁴ SNUC – National System of Nature Conservation Units: Law No. 9,985, of July 18, 2000; Decree No. 4,340, of August 22, 2002; Decree No. 5,746, of April 5, 2006. National Strategic Plan for Protected Areas: Decree No. 5,758, of April 13, 2006 / Ministry of the Environment – Brasília: MMA/SBF, 2011. 76 p



FISHERMAN MENDING HIS FISHING NET.
PHOTO: CPT NE 2

The idea of an Extractive Reserve, however, was formulated even before the SNUC. The Resex has its conceptual development and its implementation linked to a historical background of socio-environmental struggles to consolidate the territory of traditional extractive communities in the Amazon region, aimed at the cultural autonomy of these peoples and the conservation of socio-biodiversity. A Resex is, therefore, a legal figure strongly influenced by the socio-environmental line of thought, which has two basic principles: protecting biological diversity through the protection of natural resources and, at the same time, protecting sociocultural diversity, represented by local extractive practices, by ensuring the appropriation of natural resources by the communities residing in such areas.

Currently, the creation of nature conservation units related to the ways of life of these populations, like the Resex¹⁵⁵, is a path often taken, particularly by traditional peoples, to prevent

the destruction of preservation areas by economic exploitation, as is the case of Sirinhaém. Today, Brazil has eighty¹⁵⁶ Extractive Reserves, representing a huge victory for the communities, which have found a way to implement their territorial rights by creating these units.

Thus, on the Sirinhaém islands, the proposal to create a Resex emerged from the understanding that this would be an adequate way to implement and assure the right of access to the territory, along with the preservation of natural resources which are of fundamental importance to the lives of artisanal fishermen and coastal and maritime gatherers. So, in 2006, with the support of the Pastoral Land Commission and environmental entities working in the area, this traditional community decided to submit a petition to IBAMA requesting the creation of such a unit, which led to administrative proceeding No. 02019.000307/2006-31.

In 2007, in the early stages of technical studies, IBAMA was subdivided, giving rise to

¹⁵⁵ Idem, *ibidem*, p. 10.

¹⁵⁶ Available at the ICMBio Web site: < <http://www.icmbio.gov.br/>>. Access on: March 10, 2016.

the *Chico Mendes Institute for Conservation of Biodiversity* (ICMBio), created that same year through Law No. 11,516. The new autonomous government agency, linked to the Ministry of the Environment (MMA), would execute national policy actions for nature conservation units, proposing, implementing, managing, protecting, inspecting and monitoring such government-created units. However, due to lack of time to fully structure the Institute, preparation of reports remained under IBAMA control even after 2007.

While carrying out their socio-economic survey of the Sirinhaém area, the technical team identified two target groups of artisanal fisherfolk and coastal and marine gatherers: a group of families residing on the Sirinhaém islands and another “who never lived on the islands, but always used that territory to provide for their families”, as explained by Luiz Otávio Araújo, an IBAMA employee who participated in the fact-finding team.

During the studies to define the Resex area, IBAMA decided to include the whole mangrove region in the Sirinhaém river estuary. The agency concluded that in order to facilitate the preservation of that area, it would be necessary to include the full river mangrove, of which a large part was located within the limits of a neighboring municipality, Ipojuca.

The IBAMA technicians found that the eviction of families to the city suburbs, promoted by the company, had led to environment degradation, along with impoverishment and dispersion of the traditional population, with strong impact on their way of life, customs and cultural diversity. The studies eventually concluded for the need to create the Resex, and, by mid-2008, were sent to ICMBio in Brasília for approval.

After approval of the reports, a Public Consultation was held on August 21, 2009 in the Barra de Sirinhaém district. This was a mandatory administrative step in the process to create a protected area, as established by Law No. 9,985/00, and had more than once been cancelled by ICMBio due to disagreements inside the state government about the way the reserve creation process was being conducted. At this point it was found that there was a political dispute involving the state government, which was

against the creation of a protected area in that region and formally justified this dissent on the grounds of not having been consulted during the process.

However, according to an article in one of Pernambuco’s most widely read newspapers, *Jornal do Commercio*, the state government’s actual motives were quite different. The newspaper recalled that the government had already tried to prevent the creation of another Resex for economic reasons:

For the second time, the state government is trying to prevent the creation, in Pernambuco, of a federal Extractive Reserve, a conservation unit that ensures the rational use of natural resources by traditional populations. In the first attempt, the Department of Science, Technology and Environment (SECTMA) claimed that the reserve would harm the implementation of the blood products complex. The Acaú-Goiana Extractive Reserve was created by IBAMA in September 2007, on the north coast, and did not interfere with the complex. Now SECTMA is questioning the Sirinhaém Extractive Reserve, with 2,600 hectares of mangroves, which provides fish, crustaceans and shellfish to 8,000 fishermen. This time, the justification to oppose the Extractive Reserve is even more absurd: SECTMA has not been consulted. Once again, political dispute prevails over collective interest. (“Government against fishermen”, *Jornal do Commercio*, June 12, 2009.)

In spite of the state government’s opposition, the Public Consultation was held with broad participation of all involved parties, including the interested traditional community, which reaffirmed their desire and need for the creation of a federal Extractive Reserve. Finally, in 2012, the Coordination Office for the Creation of Conservation Units at ICMBio issued a technical note endorsing the creation of the Extractive Reserve, with the following text:

The relevance of the proposal to create the Sirinhaém Islands Extractive Reserve is related, at the same time, with the possibility of ensuring the conservation and the recovery of Atlantic forest remnants and their associated formations – salt marsh and mangrove areas – with marine species of great economic importance for the livelihood of traditional populations: artisanal fish-

ermen, crab pickers and shellfish gatherers. Thus, it would promote the conservation both of biodiversity and of the social diversity associated to it. In this context, and taking into account the obligation of the State to intervene in conflict situations, treating the unequal differently, it is worth emphasizing here the importance of ensuring the cultural reproduction of the weakest – namely, artisanal fishing communities in the southern coast of Pernambuco – and, at the same time, guaranteeing the diffuse rights of every Brazilian citizen (sic) in the form of conservation of the estuary in question. Finally, after completion of all legal procedures, embodied in the actions described above, we believe that this proposal is mature enough to proceed to the next step of the administrative process. We suggest, therefore, that the present process be sent to the Ministry of the Environment.

All that was expected from ICMBio was forwarding the process to the Ministry of the

Environment. However, the agency remained inert until 2015, halting without justification the administrative procedure for creation of the Extractive Reserve, leaving it without resolution and, by doing this, placing the socio-environmental conflict between the sugarcane plant and the interested traditional community in a state of uncertainty.

In order to request the regular advancement of the process and reinforce the demand for the creation of the Extractive Reserve by ICMBio, dozens of reunions and hearings were held with various institutions until mid-2015. However, in view of the agency's continued inaction, a Public Civil Inquiry¹⁵⁷ was initiated at the Federal Prosecutor's Office, in the same year, to investigate the reasons for ICMBio's tardiness in advancing the administrative procedure for the creation of the protected area. When asked about the reasons for non-completion of the process, the federal environmental agency always maintained that the only ob-

TECHNICAL STUDIES WERE PRESENTED BY THE INSTITUTES, RESULTING IN THE NEED TO CREATE THE EXTRACTIVE RESERVE SIRINHAÉM/IPOJUCA (RESEX). THE LARGE GROUP OF THE FISHING COMMUNITY THAT TOOK PART IN THE CONSULTATION AGREED TO THE CREATION OF RESEX.

ACERVO: CPT NE 2/COLLECTION





THE RIVER AND THE MANGROVE. SIRINHAÉM, PERNAMBUCO, 2016.
PHOTO: CPT NE 2

stacle to its conclusion was the opposition of the Pernambuco state government to the demand of the traditional community.

As a result of non-completion of the procedure, the Public Civil Inquiry led to the filing of a Public Civil Action¹⁵⁸ by the Federal Prosecutor's Office. Such action aimed at forcing ICMBio to complete the administrative procedure.

When interviewed by the Pastoral Land Commission during the preparation of the present study, the Federal Prosecutor in charge of the Public Civil Inquiry and Public Civil Action, Ana Fabiola de Azevedo Ferreira, said that the Public Civil Action aimed at

Putting an end to the administrative delay that, by keeping undefined the situation about creation or not of the Extractive Reserve, also contributes to the maintenance of the situation of conflict in the region, involving members of the traditional fishing communities and businessmen of the sugar and ethanol sector, in disagreement with the

normative principles that establish the duty to protect the traditional communities.

One of the arguments used by the Prosecutor was that:

Although the decision on whether to create the conservation unit pertains to the field of administrative discretion, the government cannot remain silent on the problems that afflict the traditional fishing communities in the Sirinhaém river estuary, in view of the duties assigned to it by the Federal Constitution and ratified by international convention, concerning effective protection of traditional communities.

ICMBio eventually complied with the request made in the Public Civil Action and finished the administrative procedure, but decided against the creation of the reserve and for the dismissal of the proceeding on the grounds of "unfeasibility and lack of interest in the creation of such conservation unit." ICMBio's decision for dismissal, on August 5, 2015, was based on the following arguments:

¹⁵⁷ Public Civil Inquiry No. 1.26.000.000896/2012-15.

¹⁵⁸ Public Civil Action (ACP) No. 0800098-41.2015.4.05.8312

Considering that the 56 families who resided on the 17 islands in the estuary of Sirinhaém river have migrated to urban areas.

Considering that there are no remaining residents on the Islands.

Considering that the area is no longer suitable for residence and has a history of degradation resulting from the occupation by former residents.

Considering that part of the proposed area is already inside the boundaries of a state environmental protection area, created by Decree No. 21,229, of December 28, 1998, and the remainder would be covered by state Law No. 9,931, of December 11, 1986, which declared as “environmental protection area” 14 estuarine areas in the state coast, including the Sirinhaém, Macaraípe [sic] and Formoso rivers.

Considering that the state environmental protection area has been established with the objective of promoting sustainable development, based on the implementation of economic and social development programs targeting activities that protect and conserve natural ecosystems, which are essential for biodiversity, and aimed at improving the quality of life of the population.

Considering that the issue was already being addressed at state level.

Considering that mangroves are already permanent preservation areas under the legislation in force.

Considering the expert opinion of the Coordinator of the Forest Sciences Graduate Program at the Federal Rural University of Pernambuco, in which he expresses concern with conservation of the area and questions the extractive reserve creation process.

Considering the interest of the state of Pernambuco in expanding the environmental protection area or even creating an extractive reserve or sustainable development reserve.

I hereby decide to ratify the conclusions and the arguments contained in memoranda No. 147/2015 – DIMAN/ICMBio and No. 169/2015 – DIMAN/ICMBio for discontinuance of the procedure related to the creation of the Sirinhaém Islands Extractive Reserve, with consequent filing of the current procedure No. 02124.000131/2015-19 [sic].

Firstly, it must be made clear that the families did not simply “migrate” to urban areas; they were expelled from their territory under different forms of violence, as detailed in the



FISHERMAN CONTEMPLATING THE MANGROVE IN SIRINHAÉM, PERNAMBUCO, 2016. PHOTO: CPT NE 2

present research. It was precisely their struggle to return to their place of origin that led to the request, by these families and other political actors, for the creation of a federal protected area in the Sirinhaém river estuary region. The absence of these families on the islands today in no way demonstrates that the conflict in the area has ceased. It is rather an effect of this conflict, which must still be redressed.

Secondly, the eventual creation of an Extractive Reserve does not imply that the families would necessarily reside in the same location. The matter of their return or not to the islands depends on technical studies, in conjunction with the desire of the community itself, and would only be addressed after the decree creating the protection area. Furthermore, what is sought with the creation of an Extractive Reserve is to guarantee the access of artisanal fishermen and coastal and marine gatherers to their territory, so that they can resume their traditional way of living, rescue their culture, go back to their freely chosen work and contribute to the environmental conservation of the Sirinhaém river estuaries.



As to the claim that the area has a history of degradation arising from occupation by these families, this is an argument that was repeatedly raised by Usina Trapiche, but never backed by any evidence. On the contrary, IBAMA itself and the State Agency for the Environment had already found a total absence of degradation caused by the community¹⁵⁹. Technical report No. 12/98 by the State Agency for the Environment confirms that wood removals from the mangrove by the local population “are incipient, do not cause extensive changes in the environment and allow natural recovery of such areas, as this is a sporadic and non-commercial extraction [...]; they don’t cause a significant impact on the environment.” The report also states that “maintenance of the residents is extremely important for the environmental protection areas, as, with due guidance, they would perform a monitoring and surveillance role regarding environmental impacts.” Therefore, it is clear that the presence of fam-

ilies in that area did not cause environmental damage.

In the same sense, Technical Report No. 33/98/DITEC/SUPES/PE specifically states that “IBAMA technicians who audited the area did not find mangrove or salt marsh deforestation that could be assigned to environmental degradation by the traditional community that lived there.”¹⁶⁰ The same document also reports that the islanders were clearly performing their role of caring for the territory where they lived.

The same cannot be said about the impacts generated by the agro-industrial company, as pointed out earlier. The claim that the presence of families promotes degradation of the estuarine environment, in addition to being false, is unjustifiably selective, in that it disregards numerous reports of environmental damage, such as those about vinasse dumping into the river, which persists to the present day, leading to fish mortality and affecting a place of reproduction of several marine species.

Still following an unfounded line of argument, ICMBio exonerates itself from its duty under the justification that the state government would already have created an environmental preservation area in the region and would have plans to expand it. In fact, it is known that such environmental preservation area was never implemented since it was originally created in 1998 and, therefore, never did fulfill its role as a promoter of artisanal fishing – which, much to the contrary, is suffering serious losses in Sirinhaém.

While quoting in its technical note the opinion of a graduate degree program coordinator at the Federal Rural University of Pernambuco, in which he expresses worries about the conservation of the area should the Extractive Reserve be created, ICMBio, contradictorily, hides and silences its own studies and the findings they contain. Furthermore, it should be questioned why the technical note chooses to consider only this opinion, when there is an extensive list of scientific researches and various technical reports pointing to the importance of an Extractive Reserve in that region.

The feeble argument that traditional com-

¹⁵⁹ Technical Report No. 033/98 - DITEC/SUPES/PE, and Expert Report No. 012/1998, respectively.

¹⁶⁰ Ibama Technical Report No. 33/98/DITEC/SUPES/PE related to Proceeding No. 361/98.

munities would be a threat to the environment conceals the greed for land – the same dispute over territory that remains alive through the same violent practices of the old aristocracy of sugarcane plantation owners in Pernambuco. This dispute still retains its influence over the government and often extends to other sectors of society, such as the academic community, whose members, in a relationship of economic dependence with such companies, demean themselves by issuing indefensible opinions (ANDRADE, 1989, 1994 and 2001; CARLI, 1942; FREYRE, 1937; FURTADO, 1959; and PRADO JÚNIOR, 1942).

Based on the foregoing, it can be concluded the arguments presented by ICMBio in their technical note did not take into consideration the arguments and demands of the traditional population for the creation of the Extractive Reserve. By doing this, ICMBio relinquished its institutional objectives and gave up technical arguments in the face of other interests that prevail over the duty of protecting biodiversity.

In an interview to the Pastoral Land Commission in March 2016, in Brasília, Lilian Hangae, Director of Creation and Management of Conservation Units at ICMBio, acknowledged that political disagreements between the federal and state instances of government had led ICMBio to dismiss the project to create the Sirinhaém/Ipojuca Extractive Reserve.

It should be noted that since 2011 the federal government began to adopt, as a criterion for the creation of federal protected areas, the formal agreement of states and municipalities where the protected area is to be located. This procedure, which is not provided for in any law or regulation, is a political measure adopted by the Presidency of the Republic to avoid conflicts of interest with state governors and city mayors who, in many cases, are opposed to the creation of protected areas.

On the other hand, the government of the state of Pernambuco, through its Department of Environment and Sustainability (SEMAS)¹⁶¹, whenever asked by the Federal Prosecutor's Office, always denied the existence of any opposition by the state to the creation of the fed-

eral Extractive Reserve. During a meeting with the Pastoral Land Commission on March 15, 2016, when questioned about the next steps after ICMBio's decision, a representative from SEMAS did not signal any real intention to implement an alternative plan for the area. On the contrary, he showed disinterest and even ignorance about the situation. However, in view of the Pastoral Land Commission's insistence on a more plausible response by the state, the SEMAS representative declared that perhaps the state government's rejection had occurred because the project had not been submitted to the Pernambuco State Council for the Environment (CONSEMA) for approval during the early studies.

Subsequently, on April 14, 2016, SEMAS sent Official Letter No. 32/2016-GSE to the Pastoral Land Commission, informing that the state of Pernambuco had forwarded the Extractive Reserve creation proposal to the Pernambuco State Council for the Environment (CONSEMA). However, in addition to the lack of legal provision about the need to submit such proposal to analysis by that Council, the decision to involve CONSEMA is problematic because it sends the whole conservation unit creation process back to square one. To make matters worse, the Council does not include representatives from the state's traditional communities, but the plant's lawyer is a standing member.

All things considered, it can be concluded that the state government's plan was to prevent the creation of a federal Extractive Reserve, which would run against political and economic interests of the state, the sugarcane plant and major businessmen in the region. ICMBio, on its turn, failed to promote a peaceful and final solution to the case by refusing to implement, due to political interests, the Conservation Unit that was requested by the traditional community of artisanal fisherfolk and marine and coastal gatherers from Sirinhaém and Ipojuca.

Both government levels, by acting this way, are contributing to the persistence of such widely reported rights violations over the years, in addition to leaving a rich envi-

¹⁶¹ The name of this department has been changed from Department of Science, Technology and Environment (SECTMA) to the current Department of Environment and Sustainability (SEMAS).



FISHING NET. SIRINHAÉM, PERNAMBUCO, 2016.
PHOTO: CPT NE 2



AERIAL PHOTOGRAPH OF THE MANGROVE IN SIRINHAÉM, PERNAMBUCO, 2007. THE PICTURE WAS TAKEN WHEN STAFF OF THE MINISTRY OF PLANNING VISITED AND FLEW OVER THE MANGROVE, WHICH WAS THE CENTER OF A LAND CONFLICT BETWEEN TRAPICHE SUGAR CANE COMPANY AND THE FISHERMEN COMMUNITY. AFTER THE VISIT, SPU IN PERNAMBUCO CANCELLED THE COMPANY'S LEASING. IN THAT MOMENT, THE COMMUNITY WAS ALSO EXPECTING AN ANSWER FROM THE FEDERAL GOVERNMENT REGARDING THE CREATION OF THE EXTRACTIVE RESERVE IN THAT LOCATION. PHOTO: CPT NE 2/COLLECTION

ronment, responsible for the reproduction of several marine and freshwater species, and on which numerous families of artisanal fisherfolk and marine and coastal gatherers in the region depend, unprotected and vulnerable to degradation.

“WE FIGHT SO MUCH AND WE DON'T SEE THE AUTHORITIES DO ANYTHING”

The “extractive reserve” category for the protected area, as defended and requested by the traditional community, contradicts strong interests of the prevailing economic sector in the region: the sugar and alcohol industry. The fact that it has not been created can only be explained by the subservience of the Brazilian State to the political and economic interests of this industry.

Fisherwomen Neide Nascimento attaches great importance to the creation of the reserve, “because the first thing to improve would be

that the plant would not be able to dump vinasse. Then fish would grow, charru mussels, oysters. They don't get to grow because they die.” Barriers and lack of political will by public agencies and entities disappoint the fisherwoman: “I get sad because we have been struggling for the Extractive Reserve for such a long time, and fishermen have been suffering. We fight so much and we don't see the authorities do anything.”

Neide's complaints are backed by many other artisanal fisherfolk and gatherers affected by the agroindustrial activities of Usina Trapiche. According to Barra de Sirinhaém fisherman Josué do Amparo, who has been following the Extractive Reserve process from its inception, the situation of extreme vulnerability that affects the community is to be blamed on the government agencies, which pay no attention to (or are complicit with) rights violations committed by the company. “The government has no [...] respect for the fishing community, they don't act to improve our situation,” he claims.

6

FINAL REMARKS AND RECOMMENDATIONS

“There is today an awareness among sugarcane producers and suppliers that preservation is crucial for the future of mankind.”¹⁶²

“We fail to see why social movements, politicians and government agencies defend the permanence of these people on the islands, where they live in sub-human conditions.”¹⁶³

Procurou-se, nesta pesquisa, apresentar e anThis research aimed at reporting and discussing the forms of violence endured by the traditional community in the Sirinhaém islands throughout their territorial conflict with Usina Trapiche. The facts as described point to the conclusion that the actions undertaken by the Mill have actually resulted in cultural extermination, with disruption of community ties and of their typical way of life. The situation gets even more dramatic in the light of the present condition of these families: impoverished, vulnerable and living in slum-like conditions on the outskirts of the Sirinhaém municipality. From the “full-belly” life they enjoyed on the islands, they went straight to “empty belly” and are now a part of the statistics of misery.

“A home is where you are not hungry. If there is hunger, it is just a roof,” says Elaine Brum¹⁶⁴ on the situation of riverside residents who were expelled from their lands. “A house is not only its structure, but something bigger, encompassing its surroundings, the trees, the crop, the forest, the river. A house is both inside and outside – it is broad and is everything, it is where you create bonds that ensure survival and also joy.”

The expulsion of families from the Sirinhaém islands was, in itself, in violation of Brazilian laws and all international conventions and treaties relating to traditional peoples

162 Medalha Leão do Norte homenageia pernambucanos. Available at: < <http://www.alepe.pe.gov.br/clipping/medalha-leao-do-norte-homenageia-pernambucanos/>>. Accessed on August 1st, 2016.

163 Disputa por ilhas ameaça pescadores. Jornal do Commercio, December 20, 1998.

164 News item: Casa é onde não tem fome - A história da família de ribeirinhos que, depois de expulsa por Belo Monte, nunca consegue chegar. Available at: <http://brasil.elpais.com/brasil/2016/07/18/opinion/1468850872_994522.html>. Access on: July 19, 2016.



FISHERMAN OF BARRA DE SIRINHAÉM MAKING HIS OWN FISHING INSTRUMENT, CALLED CÓVO.
PHOTO: CPT NE 2

of which Brazil is signatory. The removal of a people that has a cultural link with its territory (understood as a socially constructed space by a particular group in the production and reproduction of its own existence) always represents an attack on their identity and its cultural, organizational, nutritional, economic and territorial aspects. It is, above all, an attack on their human dignity.

On top of the intrinsic violence of “deterritorialization”, the expulsion process promoted by Usina Trapiche against the islanders was carried out by means of a series of violent acts, as detailed in the present document, thus increasing exponentially the seriousness of the violation of rights of this community.

By having their most fundamental rights denied, as extensively described on the preceding pages, the members of the community became unable to emancipate themselves as builders of their own history, ensure the livelihood of their own families and reproduce themselves socially.

As reported throughout the study, complaints and court proceedings piled up, and

still do, among various control agencies, in spite of the wealth of evidence about various damages caused routinely by Usina Trapiche for decades.

It can be seen, therefore, that the image of a socially and environmentally responsible company that Usina Trapiche assigns to itself falls short of reality. The certifications and green seals through which the company advertises its commitment to the environment and the society conceal a continued situation of environmental degradation, work exploitation and encroachment on the territories of traditional communities. In this sense, it is necessary to deconstruct the myth of social responsibility of sugar and alcohol companies, which boast a false commitment to the environment and to the population in their surroundings.

Moreover, there is a false belief that the situation of rights violation by the plants will only be resolved through a change of attitude by the companies themselves. In other words, the structural contradictions of the sugar and alcohol industry are treated superficially, as specific problems involving the need for a change

of posture. Such reasoning only masks the real problem, without delving into the heart of the contradictions on which the monoculture of sugar and alcohol is based, and, by doing so, provides the plants with a favorable corporate marketing opportunity.

Very lucidly, Pope Francis warns that:

It is not enough to balance, in the medium term, the protection of nature with financial gain, or the preservation of the environment with progress. [...] Halfway measures simply delay the inevitable disaster. Put simply, it is a matter of re-defining our notion of progress. A technological and economic development which does not leave in its wake a better world and an integrally higher quality of life cannot be considered progress.¹⁶⁵

We must also be wary of the fact that, quite often, alleged environmental conservation intentions are invoked to legitimize the expulsion of traditional populations from areas of economic interest. It is argued, in these contexts, that there is a conflict of interest between fundamental human rights and the intended environmental conservation. This is actually a false conflict. We must not forget that biodiversity of the planet will only be effectively preserved through the preservation of sociodiversity, and vice versa. From the moment traditional communities already living in these environments are separated from their land, a process of cultural degradation ensues, causing a disintegration of local knowledge that allowed a symbiotic relationship with the environment and played a key role in its preservation.

As prophesied by Pope Francis: “Today, we have to realize that a true ecological approach always becomes a social approach; it must integrate questions of justice in debates on the environment, so as to hear both the cry of the

earth and the cry of the poor.”¹⁶⁶ The present study shares this sense of socio-environmental justice and uses it as a starting point to describe the conflict between the community and Usina Trapiche and report on the rights violations perpetrated.

In this scenario of violence, it is essential to note that the choices made by the Brazilian government on the conflict at hand remain central for the persistence of the harmful consequences to the life of former residents of the islands, as well as others who depend on the mangroves and the Sirinhaém river for their subsistence. Inaction and connivance by all instances of

Today, in their suffering for having their dignity denied, artisanal fishermen and fisherwomen from the Sirinhaém islands experience what it feels like to become so many Severinos and Severinas. Outcasts in their own territory and equal in everything in life, they follow the fate of starving to death little by little every day.

government in Brazil, neither punishing the responsible parties nor restoring the constitutionally guaranteed rights of the traditional community, has been inflaming and perpetuating the conflict. Such broad and unrestricted alliance between public authorities and economic power was established against numerous human rights treaties and laws that could not be ignored by the Brazilian government.

It must also be stressed that this alliance between the State and the sugar and ethanol industry, so evident in the analyzed conflict, is neither new nor specific. The history of violence by Usina Trapiche is no different from what is done by sugar and alcohol plants in the state of Pernambuco and throughout the country. It is the result of centuries of unimaginable power, sustained to this day by a colonialist discourse of domination, exploitation and control. Between tradition and modernity, Usina Trapiche reveals that the same archaic and violent structures of power remain alive in 2016.

Therefore, it is necessary to counter the development and civilization projects that are so imposed by pointing to alternative views of life and of the man/woman-nature relationship.

165 Encyclical Letter *Laudato en Si* on “Care for Our Common Home.” Chapter 5, Item 194.

166 Encyclical Letter *Laudato en Si* on “Care for Our Common Home.” Chapter 1, Item 49.

This challenge consists, primarily, of ensuring that local communities are able to choose their own paths¹⁶⁷, on the basis of their own knowledge, values, traditional ways of life and forms of collective production and existence. Such historically neglected relationships between rural populations and the natural world can reveal directions that must be followed urgently by humankind.

Severino, a character in a play by João Cabral de Melo Neto, while traveling through the region of Zona da Mata in the state of Pernambuco, was surprised to see so much land and so much sugarcane in so few hands. The poet from Pernambuco was describing, through the experiences of Severino and his uprooted family, a centuries-old situation in the region. Sixty years after the publication of his work *Morte e Vida Severina*, the community expelled from the Sirinhaém islands is a current and almost intact picture of what was witnessed by Severino.

Today, in their suffering for having their dignity denied, artisanal fishermen and fisherwomen from the Sirinhaém islands experience what it feels like to become so many Severinos and Severinas. Outcasts in their own territory and equal in everything in life, they follow the fate of starving to death little by little every day.¹⁶⁸ Expelled, impoverished, wronged. What is left to these fishermen and fisherwomen is the struggle and the hope of taking the path of rebellion against this exclusionary model, which every day plots the ethnic cleansing of those who insist in creating a world of justice where they are free to take care of “Pachamama” [the Incan Mother of Earth and Time].

RECOMMENDATIONS:

◆ ICMBio- CHICO MENDES INSTITUTE FOR BIODIVERSITY CONSERVATION:

It is recommended to ICMBio, in view of the facts described and the defects in the adminis-

trative decision that led to undue termination of the procedure for creation of the Sirinhaém Extractive Reserve, that the procedure be resumed and the filing decision revoked. However, if the administrative procedure to create the Extractive Reserve cannot be resumed at federal level, ICMBio should demand from the Pernambuco state government a clear position about the creation of such Extractive Reserve at state level, since ICMBio itself mentioned the state’s interest in the area as the grounds for dismissing the procedure.

◆ FEDERAL PROSECUTOR’S OFFICE (MPF):

It is recommended that the Federal Prosecutor’s Office continue with their internal procedure to establish the reliability of the reasons provided by ICMBio to turn down the administrative procedure for the creation of the Extractive Reserve, in spite of the fact that all studies pointed to the need to create this unit as the best solution for socio-environmental issues in the region. After doing so, a Public Civil Action should be initiated against ICMBio based on reasons given to end the administrative procedure without creating the Extractive Reserve.

◆ GOVERNMENT OF THE STATE OF PERNAMBUCO AND DEPARTMENT OF ENVIRONMENT AND SUSTAINABILITY (SEMAS):

In its capacity as representative of the Pernambuco state government for matters involving protected areas, the Department of Environment and Sustainability (SEMAS) should be urged to formally declare its official position on the creation of the Sirinhaém/Ipojuca Extractive Reserve, or state what are its immediate plans to settle once and for all the population’s requests for that area.

◆ STATE AGENCY FOR THE ENVIRONMENT (CPRH):

It is recommended that the state’s environmental agency perform effective supervision of the water pollution inflicted on the Sirinhaém

167 SILLITOE, P. Apud in CARVALHO, Igor Simoni Homem de. BERGAMASCO, Sonia Maria Pessoa Pereira. *Sociologia Rural e Etnociências: Convergências e Diálogos Interdisciplinares*. In: Annals of the 5th National Meeting of Anppas, Florianópolis, 2010, p. 9.

168 MELO NETO, João Cabral de. *Morte e Vida Severina e Outros Poemas Para Vozes*. 4th ed. Rio de Janeiro: Nova Fronteira, 2000.

river and attributed to Usina Trapiche, thus ceasing to be complicit with such degradation. Furthermore, the State Agency for the Environment should adopt effective punitive measures, such as interdiction of the polluting source or reduction of its industrial activities, pursuant to subparagraphs I to IX, article 66 of state Law No. 12,984/2005, on the State Water Resources Policy, or at least punish the polluters with heavy fines that have an actual economic impact on such legal entities. The fines imposed by the supervisory agency usually are so low that, in many cases, the companies find it preferable to pollute and run the risk of being fined than to seek more expensive ways to avoid pollution.

◆ BRAZILIAN INSTITUTE FOR THE ENVIRONMENT AND RENEWABLE NATURAL RESOURCES (IBAMA):

It is recommended that IBAMA resume its regular oversight activities to monitor and punish those responsible for the pollution of Sirinhaém river, its estuary and the adjacent Atlantic forest. Furthermore, a pro-active pos-

ture is recommended with regard to the current developments of work started some time ago by the same agency, such as the Engenho Verde Operation, instead of disregarding previous actions and adopting an attitude of silent omission as it did in subsequent years.

◆ PERNAMBUCO STATE PROSECUTOR'S OFFICE (MPPE):

Concerning reports of water pollution in the Sirinhaém river caused by constant dumping of vinasse attributed to Usina Trapiche, currently under investigation by the Sirinhaém District Prosecutor's Office, we recommend they seek technical support from CAOP Meio Ambiente, which has a specialized staff of biologists, chemists and other professionals, to reinforce the investigations of such environmental irregularities. It is also recommended that the State Agency for the Environment and IBAMA be notified to provide a full copy of all administrative procedures that found evidence of environmental damages by Usina Trapiche, in order to use them as grounds for suitable criminal proceedings. Similarly, in view of the

THE CÓVO (TRAP FOR FISHING IN THE MANGROVE)
PHOTO: CPT NE2



facts listed, environmental agencies should be notified to perform systematic monitoring and enforcement actions at Usina Trapiche and on the areas of the Sirinhaém river estuary.

◆ FEDERAL HERITAGE DEPARTMENT (SPU):

It is recommended that the Federal Heritage Department fulfill its institutional function by canceling the government lease of the islands to Usina Trapiche, in order to promote the socio-environmental role of federal property and provide for land regularization by the traditional community.

◆ CORPORATE BUYERS OF USINA TRAPICHE PRODUCTS, SUCH AS COCA-COLA AND PEPSI:

It is recommended to the companies that buy sugar from Usina Trapiche that they try to con-

vince the sugarcane mill to stop posing obstacles to the creation of the Extractive Reserve. Should it become impossible to move forward with the dialogue and the actions aimed at respecting the territorial rights of the traditional community, severance of commercial links is recommended, as such act would be consistent with the guiding principles adopted by large companies in their relationships with suppliers.

◆ GOVERNMENT AGENCIES:

Finally, it is recommended that the various Brazilian State agencies and entities comply with their duty to watch over public documents and, furthermore, strive for transparency and reduction of bureaucracy, so as to provide access to such documents by Brazilian citizens without major hindrances.

THE BORDERLINE – MONOCULTURE ADVANCES UPON THE NATIVE FOREST AND THE MANGROVE.
PHOTO: CPT NE 2/COLLECTION



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LIST OF AGENCIES AND ENTITIES INTERVIEWED

Association of residents of Outeiro/Sirinhaém

Fishermen's Association of Barra do Sirinhaém

Federation of Agricultural Workers of the State
of Pernambuco

Legal advice - Bruno Ribeiro

Coca-Cola Company

Pepsi Company

Barra do Sirinhaém Fishing Community - Z6

Porto de Galinhas Fishing Community - Z12

Pastoral Council of Fishermen (CPP)

Police Station of Sirinhaém/PE

Franciscan Province of Santo Antônio do
Brasil/Sirinhaém

Friar Hilton

Friar Sinésio Araújo

Brazilian Institute for the Environment and Re-
newable Natural Resources (IBAMA)

Luiz Otávio Araújo

ICMBio – Chico Mendes Institute for Biodiver-
sity Conservation

João Arnaldo Novaes

Lilian Hangae

Franciscan Sisters of Sirinhaém

Family Health Center of Barra do Sirinhaém

Luci Tenório - Representative Nurse

Municipal and state education network/Sirin-
haém - PE

Prosecutor's Office of the State of Pernambuco

Federal Prosecutor's Office

Paulo Ferrari - Former Superintendent of the
Federal Heritage Department in Pernambuco

National Agrarian Ombudsman's Office – Min-
istry of Agricultural Development

NGO Terra de Direitos

Federal Heritage Department (SPU)

Department of Environment and Sustainability
of the state of Pernambuco

"I can't picture myself out of here

I don't want be out in the street hungry with the others that were removed!

The only thing the mill promises and fulfills is our removal and a life of misery.

I felt the weight of the State over me;

I felt the weight of the Judiciary over me;

I felt the weight of sugar cane agribusiness, that has nothing of sweet, over me;

In some moments the Cross also weighed on my shoulders.

I'LL COME BACK!

WE'LL COME BACK!

YES, I'M THE WARRIOR OF THE ISLANDS!"

Plácido Junior - Recife, November 9, 2010

PREPARED BY

