

(DIS)AGREEMENTS ON THE USE OF NATURAL RESOURCES WITHIN A CONTEXT OF LAND TRANSFORMATION IN SERGIPE^{1 2}

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1. Introduction

In this article we consider the intertwining of legal systems involving different agents and their distinct relationships to natural resources, from the point of view of the women who gather *mangaba* fruit (*Hancornia speciosa* Gomes) in the State of Sergipe, Brazil. Legally recognized as a culturally differentiated group, these women call themselves *mangaba* gatherers and their collective identity is associated to a common use resource of low environmental impact (ALMEIDA, 2000; CASTRO, 1997; MOTA et al., 2011). Despite their recognition, the *mangaba* gatherers suffer the impositions of changes in their daily routine resulting from the “implementation of policies to reorganize spaces and territories” (ALMEIDA, 2012, p. 63) under the aegis of the State. These policies benefit capital and private interests and have repercussions on the control and regulation of access to land and resources of various types (such as natural, economic, symbolic) which also affect the relationships between the various agents involved.

In this case study, until 2007, *mangaba* gatherers were able to gather fruit for free from a property of approximately 160 hectares in an area of remnant *mangaba* trees (*Hancornia Speciosa* Gomes) situated in Barra dos Coqueiros. For the last decade, this municipality, on the coast of the Brazilian state of Sergipe, has been the focus of property speculation and tourism expansion. However, in the wake of a judicial dispute, given the prospect of expropriation for social interests, that is, land reform (BRASIL, 2008), the site

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was fenced off and divided up by its owner, resulting in the re-signification of the rules governing extractive activities, traditionally regulated by customary rules (SANTOS, 2007). This resulted in an increase in the tension between local law, which steers extractive practices, and the formal justice system. The latter, whilst instituting laws that should favour the gatherers, is employed by their opponents who are generally able to take better advantage of existing power relationships (SCHMITZ; MOTA; SILVA JÚNIOR, 2011).

This legal defeat on the part of the *mangaba* gatherers occurred at the same time as their increased recognition and political mobilization, organized within the recently created *Movimento das Catadoras de Mangaba* – MCM [Mangaba Gatherers Movement]. At the height of this mobilization, from 2007 onwards, they called for and secured specific actions which, whilst not addressing problems of access to natural resources, dealt with issues regarding processed fruit which they bought from third parties and transformed into products such as sweets, biscuits and cakes.

As can be observed, despite the recognition of the *mangaba* gatherers' social existence, the demands of this – or indeed other traditional groups – in terms of access to territories and the maintenance of their ways of life have not been satisfactorily addressed through formal law. This is because there are persistent operational legal difficulties in adapting the situations these groups experience to existing models which steer and structure the entire legal system (PORRO; MOTA; SCHMITZ, 2010; SHIRAISHI NETO, 2007).

Given this context, the aim of this article is to analyze how legal systems become intertwined when agents have different relationships to natural resources in a process of dispute to ensure, on one hand, local rights and, on the other, formal law in one of the last remaining areas of naturally occurring *mangaba* trees in the municipality of Barra dos Coqueiros, Sergipe.

2. The case study

This research involved a case study employing different methods. We share the understanding that it is possible to acquire knowledge of an object of study by the intensive exploration of a single case (BECKER, 1994; GOLDENBERG, 2005), in this instance the existing relationships between the various actors in and around a property locally known as Matinha, in the municipality of Barra dos Coqueiros, Sergipe. Here, until 2007, the *mangaba* gatherers were free to practice extractive activities, similar to what occurs in other Brazilian states. Following a dispute between the gatherers and the landowner regarding the property's expropriation for the social function of land reform the mode of access to the site was changed, requiring gatherers to be formally registered and pay for the fruit.

The methodology, involving a predominantly qualitative approach, consisted of direct and participatory observation methods, as well as interviews (open and semi-structured) with 23 *mangaba* gatherers who gather or have gathered *mangaba* fruit in Matinha, as well as three researchers and three specialists. The landowner and his employees did not agree to participate in the study. In addition, a review of the statistics and procedural documents produced by the Brazilian National Institute of Colonization and Agrarian Reform (INCRA) was conducted, relating to the process of property expropriation.

This research was carried out between 2007 and 2013, at the height of the tourist and property boom in areas where *mangaba* trees occur naturally in Sergipe - in particular in the metropolitan region of Aracaju (of which the municipality of Barra dos Coqueiros is part) - subsequent to the inauguration of the *Construtor João Alves* Bridgeⁱ linking the State capital to the municipality in question, just 3 kilometres by road. As a consequence, the property market was stimulated through the building of luxury residential condominiums and land-parcelling in areas containing naturally occurring *mangaba* trees and mangroves on which the *mangaba* gatherers depend for their survival. The effects of this bridge on the municipality's population growth are evident, not only in its urban centre, but also all along the coast road, where occupation is governed by the property market and by the indiscriminate felling of native vegetation.

The *mangaba* gatherers participating in this study are women who have been engaged in extractive activities in territories they have occupied for several generations and in which they practice a range of other activities (such as mangrove foraging, small business ventures and house-cleaning). Different arrangements, varying in time and space, have guaranteed the means for the social reproduction of their families. Acting within the restraints and opportunities inherent to distinct systems of accessing resources, the gatherers have established a set of customary rules which guide their extractive activities and around which they organize their ways of life and construct their identity. These rules, however, have been challenged given the change in the property regime of the main *mangaba* gathering location in the municipality - the subject matter of this article. In Barra dos Coqueiros, as in the entire state of Sergipe, the forms of resource appropriation are becoming increasingly restricted to market relations. This leads to a reduction in the open access to extractive activities which have traditionally depended on a landowner's symbolic permission, according to friendship and god-parenthood relations that prevailed until recently.

3. From free to private access to the mangaba trees

In Sergipe, literature and oral tradition maintain that until the advent of the conservative modernization of agriculture in the 1970s, the coastal areas where *mangaba* trees grow were occupied by indigenous peoples and social groups reminiscent of sugar plantations and decommissioned sugar mills (SUBRINHO, 1983). As analyzed elsewhere, in this area the notion of "a place where those with nowhere to go can always find a little fish to eat and keep themselves alive" predominated (CORDELL, 2001, p. 139). Arrangements comprised activities such as fruit-gathering, subsistence crop cultivation, animal extraction from rivers and the sea, and service provision.

Thus, "those who arrived" set up specific ways of accessing common use resources that, despite being of minor importance to the market economy, enabled "those who remained" to obtain what was necessary to survive and consolidate their presence in so-called "traditional"ⁱⁱ communities, complemented by social and environmental opportunities and constraints associated with the temporary or permanent migration of local men selling their labour in other regions of Brazil.

In Barra dos Coqueiros, there were substantial differences between the social dynamics of the use and appropriation of resources in the areas closest to the sea, affected by the building of holiday homes, and the more distant sites where large coconut plantations predominated. The latter sites saw the height of their expansion in the municipality in the 1980s, when coconut cultivation attained 13% of the total area of the State of Sergipe (MOTA; FONTES; SIQUEIRA, 1995).

In an interview with residents of the region, Santos (2007) observed that they were aware of a decline in certain extractive activities, possibly linked to the increase in the number of holiday homes and the implementation of the coconut monoculture in the 1980s. However, as already observed (over the course of the last two decades), the 1990s saw a diversification of the economic activities in the coastal eco-systems, particularly tourism (land-parcelling, farm-hotels, guesthouses, “fish and pay” establishments, holiday homes, etc.) and the expansion in crustacean farming, with a reduction in the areas for common use resources to which local communities had enjoyed access.

Santos and Bezerra (2012) showed that artisanal fishing in the municipality has suffered the effects of overfishing and the reduction in the amount of fish caused by oil industry activities along the coast. However, the activity that has attracted most attention is shrimp farming. According to Carvalho and Fontes (2007), there are eight ongoing enterprises. The authors’ analysis indicates a significant reduction in mangroves areas, whilst the industry offers poor remuneration to salaried workers (between BRL\$ 200 to BRL\$400 [Brazilian reais] per month).

These fragile local communities dependant on the natural resources in Barra dos Coqueiros were further debilitated when free access to the resources at a property known as Matinha was denied. Santos (2007, p. 93) denounced this situation when he analyzed the state of vulnerability of approximately 150 *mangaba* gatherers who gathered fruit at that establishment. As a consequence, in this study a significant reduction - to 30% - is observed in the number of *mangaba* gatherers accessing the site as well as a search for alternative means of survival such as employment insurance for artisanal fishermen during closed seasons and the *Bolsa Família* [Family Benefit] program, the sale of fruit from roadside stalls and domestic cleaning jobs in the municipality’s urban area and summer houses.

Paradoxically, whilst *mangaba* gatherers experienced reduced access to natural resources, the public authorities’ support initiatives have concentrated on value-adding programs involving fruit processing and have disregarded structural issues concerning access to land and to *mangaba* trees. The limited access to land and common use resources in most of the areas where the gatherers practice extractive activities has increasingly resulted in the restructuring of social relationships built around extractivism, involving agreements and disagreements between the different interpretations of legal systems, as analyzed in this article.

4. Opposing legal systems?

In a similar situation to that described by Cardoso, Schmitz and Mota (2010) with regard to the groups known as *quilombola* communities on the island of Marajó in the

State of Pará, the *mangaba* gatherers of Sergipe have no written laws regarding the access to natural resources. However, these rules are engraved in their memories and serve as guidelines for their daily social relationships and practices which, in turn, are steered by these same relationships. However, as these authors show, the local legal system is founded upon multiple intertwining with other legal systems that make up the social world, underpinned by the subjects' interpretations of these various systems. As a result, in this case, the internal rules of the community co-exist with norms established by the State together with rules proposed or imposed by other social groups with whom the *mangaba* gatherers maintain relations, such as local farmers and members of the business community.

Moore (1973) argues that rules and regulations originate in a number of ways. They can be consciously drawn up by legislators, courts of justice and other official agencies in accordance with their intended purpose; they may also be imposed by private organizations within their sphere of influence; and they can also evolve "spontaneously" from customs, within the ambit of specific groups which are capable of guaranteeing compliance to these rules. In view of this, it can be argued that the *mangaba* gatherer community constitutes a semi-autonomous fieldⁱⁱⁱ. Although the State is able and has the legitimacy to enforce compliance to its laws, it does not hold the monopoly in establishing and enforcing rules and regulations. Moore emphasizes that the use of the semi-autonomous field concept requires close consideration of the issue of connection with society at large (MOORE, 1973, p. 722).

We are conscious of the fact that rules occupy a place of distinction in terms of the intertwining of different legal systems. Therefore, this article gives priority to two distinct legal systems to which *mangaba* gatherers and the landowner appeal: i) that which locally governs the *mangaba* extractive activities, based on this group's own cultural references; and ii) the formal system adopted by the State, through which the gatherers sought to guarantee the right of use to the resource they traditionally exploit and which the landowner appeals to in order to assert his rights.

These two systems were also identified by Shiraishi Neto (2009). He compares two trends: the first relates to the emergence of social movements who demand that the rights of the groups they represent be upheld and maintained in face of the growing economic exploitation of their territories which threatens traditional forms of using resources. The second is evidenced by the actions of the State to promote development by means of "[...] measures aimed at 'incorporating' nature to the market, thereby rationalizing its use [...]" (SHIRAISHI NETO, 2009, p. 4).

4.1. This place in dispute, the dispute for this place

The analyses conducted regarding the extraction of *mangaba* in Barra dos Coqueiros almost a decade ago – before the bridge was brought into use – already pointed to threats to this activity due to growing property speculation (SANTOS, 2007). In face of this situation, the *mangaba* gatherers reacted. One of their first actions as subjects of specific rights - legitimated by a collective political identity constructed upon the common use of natural resources and supported by different allies - was to claim their rights to the land

in question which was decreed an area of social interest for the purposes of land reform (BRAZIL, 2008). Their experiences were sustained by their conviction that the plants in the area have no owners, since they were the work “of God”, and not the product of human labour, reinforced by the fact that “the owner never gathered *mangabas* and had not planted a *mangaba* tree in 30 years”.

The understanding expressed here is similar to that analyzed by Cardoso (2008) in the Bairro Alto *quilombola* community on the island of Marajó, Pará. According to *quilombola* community members, “what is given by nature belongs to all. Only crop cultivation and hunting, activities which, generally speaking, involve labour, guarantee the right to an object which was initially of common use: in other words, it is labour that transforms an object of common use - taken from nature - into property” (CARDOSO, 2008, p. 157).

As a result of the *mangaba* gatherers’ mobilization to guarantee access to the resources they have been exploiting within this property for decades, INCRA officials issued supervision, inspection and assessment reports in favour of its expropriation^{iv}. However, this initiative came up against the high value of the compensation for the property, given market tendencies prevalent at the time based on intensive property speculation. Furthermore, registration of the people who accessed the area for extractive purposes, carried out by the MCM, identified only 51 families^v, thereby making compensation difficult, since it could not be strictly justified from the point of view of economics. We were in the field at the time of registration and observed that several of the *mangaba* gatherers were reluctant to register because they feared conflicts with the landowner and his employees and thereby the loss of access to the property for future fruit-gathering.

Nevertheless, the MCM leadership and their allies called upon the Ministério Público Federal^{vi} (MPF) in Sergipe to denounce the threats to their way of life and to find a favourable way forward. In response, the MPF put together a work group involving different institutions to outline the problem and seek solutions.

According to two *mangaba* gatherers, in one of the hearings held exclusively to discuss the situation of the property in question, they were surprised by the presence of the landowner, especially because he seemed perfectly at ease while they were nervous. There were few gatherers and they were unsure about what to say because they felt intimidated by his unexpected presence. In this situation, they were unable to present arguments relating to their historical use of the land and left with the impression that they had been defeated. We argue that the sentiments reported were caused not only by their lack of knowledge of legal protocols, but also by the parties’ distinct social capital, whose practices revealed either a proximity or a distance between the three different groups of actors – the *mangaba* gatherers, the landowner and MPF representatives.

Despite efforts invested by the newly-formed MCM and specialists working in institutions in favour of their cause, the process was paralyzed^{vii}. Meanwhile, the landowner parcelled up the property, thereby preventing its expropriation. The subsequent decision in favour of the landowner was accepted passively by the gatherers (SCHMITZ et al., 2011). Following his success in the legal action, the landowner set new rules for *mangaba* gathering, hiring an “overseer” to control the entry and exit of people gathering *mangaba* at the property, as well as establishing payment per bucket of fruit collected.

Following their frustrated attempt to guarantee continued free access to the *mangaba* trees, the gatherers reinterpreted the concept of property in Barra dos Coqueiros, defending a model of absolute property, free and unencumbered by any type of onus (SHIRAISHI NETO, 2009). This interpretation differed from formal legislation, given it did not observe the principle of social interest. Despite recurrent complaints regarding the present duty to pay for the fruit, which did not previously exist, the understanding expressed by the gatherers is that “nobody has the right to take what belongs to others”. Extractive activities previously practiced on privately owned land, but to which access was unrestricted, based on the understanding that “the plants were planted by no one”, appears to have been replaced by a commercial relationship between the landowner and the gatherers following the legal defeat in which the gatherers had demanded the property’s expropriation. This new conception of ownership appears to extend even to the trees, now seen as the object of private ownership, in contrast to interpretations recorded in a prior study stating that, “the land may have an owner, but the *mangabas* don’t belong to anyone” (SCHMITZ; MOTA; SILVA JÚNIOR, 2009). Therefore, following the legal defeat, what appears to be at stake is this claim’s legitimacy, as also analyzed by Martins (2003) with regard to a Landless Peasants’ Movement (MST) case, notwithstanding the particularities of each situation^{viii}. Nevertheless, a certain feeling of “impotence” is observed regarding the understanding of the “excessive formalism” of the law (SHIRAISHI, 2011, p. 28).

The formal legal system, once employed by the gatherers for the purpose of expropriating the land is the same system which currently steers the relationship between the gatherers and the landowner when they understand that the right to private property must be respected.

The *mangaba* gatherers have developed their own rules (SCHMITZ; MOTA; SILVA JÚNIOR, 2009), but they are also subject to the officially instituted legislation applied, such as in the cases for creating a *Resex* (Extractive Reserve), the approval of a law which recognizes them as a culturally differentiated group^{ix} and to confirm the private ownership of the area known as *Matinha* following the legal intervention of the landowner. Both the *mangaba* gatherers and the landowner used the State’s legal apparatus to defend their own interests. In this case, opponents must be aware of their rights, be adequately organized and be able to mobilize the coercive power of the government to defend their cause (MOORE, 1973). For Moore, “many legal rights in this setting can be interpreted as the capacity of persons inside the social field to mobilize the State on their behalf” (1973, p. 728-729). As a result of the land dispute, the landowner guaranteed his own interest by conditioning the use of resources to his control.

4.2. The owner dictates the rules!

At the time of this research, the *mangaba* gatherers reported that the rules governing extractive activities in the property included: open access to the trees for all (anyone can practice fruit-gathering); the proscription of the deliberate breakage of fruit-bearing branches, gathering unripe fruit and cutting down trees; gathering priority

to the first to arrive at a particular tree; regulations regarding the ownership of hooks^x which gatherers no longer carry to and from the site; and the payment per bucket of fruit gathered. With the exception of the last three including the fruit gathering charge, rules coincide with those identified in the literature for Sergipe and Pará (FERNANDES, 2011; LIMA, 2012; ROCHA, 2012; SCHMITZ; MOTA; SILVA JUNIOR, 2011). The change regarding where hooks are kept is significant, given that in different Brazilian states hooks are symbolically considered by the *mangaba* gatherer women as a signifier of their condition.

The employees do not provide any formal guidance to gatherers regarding what is permissible inside the boundaries of the property, they merely suggest avoiding breaking branches and gathering unripe fruit. "He [the landowner] just doesn't want us to gather unripe fruit or break the branches" (S.M.H.F., 23 years old, *mangaba* gatherer). The respondents state that there is no supervision regarding compliance with the restrictions cited. The employees' lack of action to stop practices considered predatory is frequently criticized, as is the irresponsible behaviour of those using the site. "If you looked after it better, wouldn't everybody gather more fruit? But they don't do that, they [the gatherers] are the first to mess it up" (A.I.M., 41 years old, *mangaba* gatherer).

The *mangaba* gatherers who seemed discontent with the inappropriate behaviour of others no longer felt at ease to verbally reprimand them, the traditional means used for recriminating predatory practices (SCHMITZ; MOTA; SILVA JÚNIOR, 2009). This is because they understand that now they are under a different form of control. Thus, the understanding of the need for the aforementioned rules, which gatherers used to enforce through verbal reprimanding, has not substantially changed with the new set up. In their speech, however, the duty of ensuring plants are cared for has gradually passed from the *mangaba* gatherers to the landowner, who now profits from this activity. Nevertheless, it is thought that the landowner does not effectively assume the responsibilities he acquired since the change in the system of access to resources: "There's none of that there, nobody supervises us. You can break branches, gather unripe fruit, there's no one there to complain. All they want to know is how much you've gathered. I think that's wrong" (M.M.L., 42 years old, *mangaba* gatherer).

We argue that the attitudes in relation to the plants are completely different because each subject ascribes them a different meaning: for the gatherers, plants are a central factor in their social reproduction, whilst for the landowner they are merely elements in an area whose value is increasing. As a result, coercion (reprehension of transgressors), exercised in order to enforce the customary norms of *mangaba* gathering (CARDOSO; SCHMITZ; MOTA, 2010), seems no longer to be the exclusive responsibility of the gatherers, in as much as they demand that the landowner and his employees become responsible for enforcing compliance and overseeing the behaviour of all those who enter the property.

Initially, permissions and restrictions included in this set of rules did not change with the introduction of fruit gathering charges. However, the universal nature of access seems to have been reformulated by the gatherers within the new context, because they now make a distinction between who can and who cannot enter the site and accept the condition of payment with which everyone must comply.

4.3. Everyone can gather, providing they pay!

When complaining about the reduction in the availability of fruit at the site, the *mangaba* gatherers generally refer to competition, namely, those who enter the property unseen and who, consequently, do not pay. Within this context, the underlying assumption is that more fruit would be available if there was efficient control over those who do not pay. “[...] There would be enough *mangaba* there to gather all year round, if you could do that, but it doesn’t last four months. Those people [who enter without permission] devour everything” (M.E.A, 43 years old, *mangaba* gatherer). Consequently, the employees are expected to take steps to inhibit the predatory actions of some who pay and to prevent theft by those who enter by stealth. However, the gatherers allege that none of these demands are met: “People who don’t pay, gather. They gather fruit, cause damage and he [the landowner] does nothing to control it” (C.I.S., 27 years old, *mangaba* gatherer and fisherwoman).

The contrast between the gatherers’ different understandings regarding the indiscriminate access of all inhabitants to any plant for fruit-gathering purposes has grown in the new context. The opinion expressed in the statement below is shared by some of the Barra dos Coqueiros gatherers: “It would be better if there were less people, but everyone needs it, so we can’t stop anybody” (M.M.C.F, 48 years old, *mangaba* gatherer). For this gatherer, the shared right to the use of resources still has many of its characteristics and remains central for *mangaba* extractivism (SCHMITZ; MOTA; SILVA JÚNIOR, 2009). However, for others, complaints regarding unauthorised entry indicate a need to reformulate the rules so that access is limited to those who pay for the fruit, whether they live in the vicinity or not. One way or another, the gatherers interviewed recognize the importance of the area to the overall survival of the population. Given that in their understanding nobody should be denied the possibility of supporting themselves and their families, they see a ban on those who transgress as a strategy for reducing the pressure on this resource. It is important to point out that the number of *mangaba* trees has been drastically reduced by the transformation of the landscape caused by urbanization in the region.

4.4. Private property: authorised entry only!

In the recent past, prior to the mobilization for expropriation, the interviewees stated that the abandoned aspect of the property and the absence of a responsible landowner and his employees encouraged unauthorized entry to the site, despite the existence of precarious fencing. This corroborates the observations made by Schmitz, Mota and Silva Júnior (2011). Nevertheless, the gatherers recently expressed in their statements a feeling of shame in relation to entering other people’s property, as they used to do. For this reason, many of the gatherers feel more comfortable with the current system of payment, a condition that exempts them from the risk of the embarrassment they used to be exposed to when they entered the area without permission.

In the statements collected in Barra dos Coqueiros, the legitimacy of ownership was not questioned. “There, people were planning to invade; they wanted to take it

away from the owner. I think when someone is an owner they deserve it, because it is their inheritance, right? [...] For example, this land here belonged to my grandmother, it's an inheritance, it's ours. Would we want someone to come and take it? We wouldn't, right?"^{xi} (L.R.M., 31 years old, *mangaba* gatherer and casual worker in bars and restaurants).

However, the property in this case study, one of the few remaining areas of native *mangaba* trees in Barra dos Coqueiros, is of vital importance for the social reproduction strategies of the inhabitants of the entire municipality. Recognition of the crucial significance of this area for a considerable number of families is a consensus among all interviewees and is expressed in several instances: "That's why it would be bad to create a condominium there. Too many people depend on it. If they go [the property's *mangaba* trees] it's all over for everyone" (P.M.A.S., *mangaba* gatherer). In some statements, the function of the property in providing for the families is contrasted with the owner's excessive advantages: "There are lots of people gathering *mangaba* there" (S.M.H.F., *mangaba* gatherer). They also appeal to divine benevolence when describing the value of the land: "It was there that God, in His infinite wisdom, decided to place the *mangaba* trees" (P.M.A.S., *mangaba* gatherer).

Although the statements reveal the recognition of a collective interest in an area whose social function may be proven, the interviewees abdicate the right which arises therein in favour of the landowner, whose right to ownership is not questioned. At the same time, the trees, their fruit and the land they depend on are susceptible to private appropriation. This is why the fruit is now only theirs once it has been purchased: "Now that he [the landowner] is looking after the place, I don't go there to steal" (P.M.J.S., 61 years old, *mangaba* gatherer and pensioner).

Thus, the understanding that used to prevail under the local right which suggested different ownership regimes for the land and the fruit appears to have been replaced by the absolute nature of private property, within a scenario containing increasingly more fences. In contrast to how it used to be, the owner now controls and monitors access to his property through his employees. This was the result of the rise in the value of the property and increased expectation created by the boom in the region's property market, along with policies to expand tourism.

5. Conclusion

The subject of this article has been the intertwining of legal systems involving agents, who have different relationships with natural resources, in disputes which oppose local rights to formally instituted rights. We have addressed the inter-relationship between the legal norms - which steer the local practices of a group of women, typical of traditional peoples and communities - and formal law - the arena in which their main opponent, the landowner, acts. This case study involved a private property used for decades by gatherers without restriction, a custom based on locally established rules that were challenged in 2007 when the *mangaba* gatherers demanded the expropriation of the property for the purposes of land reform.

In this article, we analyzed how the rules that constitute a legal system can be permeated by surrounding society. On the one hand, the *mangaba* gatherers managed, with the support of allies, to bring the State to their cause to create a law recognizing them as a culturally differentiated group. On the other, they lost the dispute for the expropriation of Matinha which would have guaranteed their access to the resources they depend on to survive. This defeat influenced their struggle to enforce customary rules and significantly reduced the areas available for extractive activities, in other words, their cause was undermined by the prevalence of private property rights in detriment to the social function principle.

The intertwining of legal systems in this case study profoundly influenced the semi-autonomous field (MOORE, 1973) of the *mangaba* gatherers, who, within this new context, demanded that the rules previously practiced be maintained, but attributed this responsibility to the landowner. Thus, they legitimized the private ownership of the land and plants. This leads us to argue that other forces emanate from the larger world which surrounds the group (MOORE, 1973, p. 720). Evidence of this is the fact that most of the gatherers interviewed preferred the new set up. This is because of the absence of constraints common in the past, in consequence of the covert fruit-gathering. The few diverging, but not necessarily opposing, positions allude to a past when unauthorized, though not restricted, entry reduced the number of users, thereby attenuating the pressure on resources.

Their defeat in the dispute described here reinforced the absolute nature of the concept of private property: "Nobody has the right to take what belongs to others". The landowner's position was strengthened within a context where the gatherers face a serious decline in the area available for *mangaba* gathering in the municipality. Although the *mangaba* gatherers know that their survival is tied to the access to *mangaba* trees, they have resigned themselves in face of both the possibility of the sale of the property for the building of luxury condominiums and of a breakdown in the current agreement: "It won't be long before the owners won't want to sell to us anymore; they'll want to sell straight to the factory" (S.N.M., 35 years old, *mangaba* gatherer and shell fisherwoman).

The obstacles encountered during the process to ensure control over resources by formal legal means contrast with the persistence of customary rules, even in face of the changes in the system of access. The sole exception relates to the possibility of the private appropriation of *mangaba*, unthinkable in the past, but now beyond dispute, because it is a view they share with the owner. From the moment they pay for the fruit, gatherers own it. Just as those who sold the fruit to them owned it until this transaction occurred. In effect, the *mangaba* gatherers understand that the transgressions still practiced within the establishment and even the failure to comply with the persisting traditional norms harm not only the landowner, but also themselves: "Because there are no employees there [in sufficient numbers to oversee the whole area], if there were, this [the predatory practices] wouldn't happen, not to mention the ones who steal – we pay and others steal. That's how it happens" (A.I.N., *mangaba* gatherer).

Furthermore, the gatherers' position with regard to the property discussed is essentially passive: they do not question the supremacy of the landowners' rights over their

own, although with the new repositioning of agents – now constituting a seller-buyer relationship – these rights are merged. The set of rules remains almost the same as those in force in the past, although responsibility for complying with these rules is increasingly understood to lie with the landowner who, in turn, does not appear to be interested in reprimanding transgressors because his interest is predominantly centred on the rising value of the land.

If the formal legal system is reinterpreted by the gatherers so that it rubber stamps the new relationships established between them and the landowner and reaffirms the absolute right to the property – which, contrary to expectations, is not questioned – who will raise the banner of law to revert the situation of the increasing environmental degradation and social inequality experienced by the *mangaba* gatherers of Barra dos Coqueiros?

Notes

- i Until 2006, the Sergipe River, which separates the municipalities of Aracaju and Barra dos Coqueiros, was crossed on passenger boats locally known as “popopô” and “tototô”, and by car ferries.
- ii Culturally differentiated social groups.
- iii As identified by Cardoso (2008) in the case of the Bairro Alto quilombola community on the island of Marajó, in the State of Pará.
- iv On one hand, as a result of illegal deforestation, the negligible productivity of the coconut plantations, with no commercial output, showing signs of abandonment and, on the other, due to the use of the regenerative vegetation, rich in mangaba trees, by a number of extractivist families.
- v Santos (2007) identified 150 mangaba pickers with free access to Matinha.
- vi The Ministério Público Federal, equivalent to the Public Prosecutors Office, acts at the Federal Level, it has autonomy with regard to the other powers. Its role is to defend the individual and social rights of citizens in the supreme courts and protect citizens against potential abuses and omissions committed by State authorities.
- vii On account of the obstacles to land expropriation for land reform, the establishment of a sustainable use conservation unit was subsequently proposed, given the possibility for expanding the area by incorporating other properties in the vicinity to the area in question. The proposal would be put in practice via a partnership between INCRA and the Chico Mendes Institute for Biodiversity Conservation (ICMBIO), responsible for funding compensation and the expropriation of areas established through studies and prior consultation with the local communities, respectively. However, the initiative was undermined by the joint bureaucracy of the agencies..
- viii José de Souza Martins identifies this problem in the case of landless peasants who receive much greater institutional support from the MST (Brazilian Landless Peasant Movement) compared with the support mangaba gatherers receive from the MCM. Nevertheless, Martins (2003, p. 135) states that MST leaders “[...] managed to mobilize the poor [...], but were unable to convince them of the legitimacy of the mobilization”. The author concludes that the landless peasants want to reform their own image.
- ix Law n. 7.082, 16 December, 2010.
- x A wooden pole with a curved wire hook at the tip, used to remove fruits from the higher branches. Usually the hook is brought to work and kept at home.
- xi We estimate that around 10% of the mangaba gatherers own small plots of land on which there are native mangaba trees.

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(DIS)AGREEMENTS ON THE USE OF NATURAL RESOURCES WITHIN A CONTEXT OF LAND TRANSFORMATION IN SERGIPE

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Resumo: O objetivo do artigo é analisar o entrelaçamento de ordens jurídicas entre atores que se relacionam diferentemente com os recursos naturais no processo de disputa por uma propriedade, em uma das últimas áreas de ocorrência de mangabeiras (*Hancornia speciosa* Gomes) nativas no município de Barra dos Coqueiros, Sergipe. As principais conclusões mostram que tanto as catadoras como o proprietário recorreram ao direito formal (ordem jurídica estatal) para fazer valer os seus interesses. A vitória do segundo extinguiu a condição de acesso livre às mangabeiras, impondo um acesso privado, o que influenciou na reestruturação das regras consuetudinárias (ordem jurídica local). Os percalços encontrados ao longo da tentativa de assegurar o controle sobre o recurso pelos meios jurídicos formais contrastam com a persistência das regras consuetudinárias, mesmo com as mudanças no sistema de acesso; ademais, chamam a atenção para a complexidade do pluralismo jurídico e para a permeabilidade das diferentes ordens jurídicas.

Palavras-chave: Ordens jurídicas. Catadoras de mangaba. Comunidade tradicional. *Hancornia speciosa* Gomes. Extrativismo.

Abstract: This work assesses the intertwining of legal systems, involving actors who have different relationships to natural resources in a context of competition for land ownership in one of the last remaining areas where the native fruit species, *mangabeiras* (*Hancornia speciosa* Gomes), occurs in the municipality of Barra dos Coqueiros, state of Sergipe, Brazil. The main results show that both the *mangaba* gatherers and the landowner have resorted to formal law (state law) to enforce their own interests. The landowner's legal victory abolished open access to *mangabeira* trees and imposed private access to this resource which has influenced the restructuring of customary rules (local laws). The obstacles encountered in attempts to secure control over this resource by formal legal means contrast with the persistence of customary laws, despite changes in the access system. Moreover, this intertwining demonstrates a complex legal pluralism and the permeability of the different legal systems within this context.

Keywords: Legal System. Mangaba gatherers. Traditional communities. *Hancornia speciosa* Gomes. Extractivism.

Resumen: El objetivo de este trabajo es analizar la interrelación de los ordenes jurídicos entre los actores que se relacionan de manera diferente con los recursos naturales en la disputa por una propiedad, en una de las últimas áreas de ocurrencia de Mangabeiras (*Hancornia speciosa* Gomes) nativas en el municipio de Barra dos Coqueiros, Sergipe. Los principales resultados muestran que tanto los recolectores como el propietario recurrieron al derecho formal (orden jurídico estatal) para hacer valer sus intereses. La victoria del terrateniente ha extinguido la condición de libre acceso a las Mangabeiras, imponiendo un acceso privado, que influyó en la reestructuración de las normas consuetudinarias (orden jurídico local). Los contratiempos encontrados a lo largo del intento de asegurar el control sobre el recurso por medios legales formales contrastan con la persistencia de las reglas consuetudinarias, incluso en vista de los cambios en el sistema de acceso; además, llaman la atención sobre la complejidad del pluralismo jurídico y la permeabilidad de diferentes ordenes jurídicos.

Palabras clave: Orden jurídico. Recolectoras de mangaba. Comunidad Tradicional. *Hancornia speciosa* Gomes. Extrativismo.
