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**BETWEEN THE RIFLE AND THE SICKLE: NATURAL LAW
IN PEDRO CASALDÁLIGA'S POETRY**

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ABSTRACT: Whenever there is oppression, there is omission. In this paper, by interconnecting law and literature, we discuss the issue of property and the criticism made by the bishop and activist Pedro Casaldáliga regarding land conflicts between natives and landowners in the region of Araguaia in Mato Grosso. For this, the article presents the study of the poems “*Cemitério de sertão*” and “*Terra nossa, liberdade*”, from the book *Antologia retirante*, published for the first time in 1978, and also the poem “*A todas as quebradeiras de côco do Nordeste*”, published in 1989 in *Águas do tempo*. The social function of property, whether in the theological or in the capitalist sphere, constitutionally protected in Brazil, is particularly important for this research, since land is deeply linked to particular cults and beliefs of the native people. This analysis demonstrates the negative role of the State as responsible for preventing natural law, and thus, the achievement of justice in society.

KEYWORDS: Law and Literature; Mato Grosso; land rights; natural law; Testimonial Literature.

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“Nothing to silence us!”³

P. Casaldáliga

1 INTRODUCTION

This study has the purpose of analyzing the poetry of Pedro Casaldáliga (1928-2020). His work reprimands the lack of rights and the oppression suffered by the marginalized people, especially in the context of land dispute between the native Brazilians and the landowners of the state of Mato Grosso, in a region that has been extensively colonized, explored and isolated. To accomplish that, this paper presents the study of poems as a primary source. The corpus includes the poems “Cemetery of the wildlands” and “Our land, liberty”, from the book *Migrant Anthology*, first-published in 1978, and also the poem “For all the coconut breaker women of the Northeast”, published in 1989, from the work *Waters of Time*. Also, this paper uses secondary sources from history, law and literary theory.

Firstly, a theoretical survey is conducted, mainly based on authors who develop the idea of the interconnection between Law and Literature, such as François Ost (2005), Germano Schwartz (2006) and Antônio Candido (1995). Following to that, the life of Pedro Casaldáliga is contextualized, focusing on the causes he fought for. After that, based on the analyzed poems, the matter of land and property is discussed, especially considering its social function. In the writings of Pedro Casaldáliga, it is possible to see a proposal for a certain theological legal naturalism. The social function of property, whether in the theological or the capitalist spheres, is seen constitutionally in Brazil. It concerns this research, mainly because the land, for the native Brazilians, is deeply connected to personal cults and beliefs. This legal theory analysis is based on Norberto Bobbio (1999) and John Locke (2005).

Regarding the topics analyzed here, the Law and Literature movement shows itself to be helpful. It has consolidated a TV show on the

³ Verses, poems and titles are translated to English. The original ones can be found in the Portuguese version of this paper.

channel TV Justiça in partnership with UNISINOS, coordinated by Lenio Streck. It has also been object of study for several researches around the country, such as one by Laura Mascaro (2011), who analyzed the role of Literature in the accomplishment of human rights, at Universidade de São Paulo, and José Alexandre Sbizera (2017), who studied the link between language, Law and Literature in his doctoral dissertation at Universidade Federal de Santa Catarina. As for the criticism on the work of Pedro Casaldáliga, it is composed of papers such as the one by Célia Maria Domingues da Rocha Reis and Marinete Luzia Francisca de Souza (2014).

In the poetry of Casaldáliga it is possible to notice the testimony of silenced people, victims of a legislation based on geographical determinism and the colonizer domination. Once the idea of land conquest was crystalized, the State became an accomplice of several wrongdoings, as long as they made profit. The only law made effective within the Brazilian Siberia⁴: the law of the strongest ones.

2 LAW AND LITERATURE: ON THE BORDER OF INTERPRETATION

There are intimate characteristics connecting the Law to the Arts. Humankind is essentially capable of sensitizing. The ability of being disturbed by beauty is a distinguishing trace of humans as opposed to other animals. However, rationality has become instrumentalized, and, when solidified by Capitalism, in a historical context of uneven production, even art has been transformed into marketing, product, more useful for human alienation than for critical thinking. Bare of its emancipatory characteristic, art as a product is simple entertainment and does not help people think by themselves. It is ready-made and represents a dichotomic relation of domination and denial of individuality, which makes people repress their desires and fit in to social values now ruled by marketing expectations (Adorno & Horkheimer, 1985).

⁴ “*Ecos da Sibéria* (Echoes from Siberia) was the name of a newspaper column from Cuiabá, whose content, in general, referred to political episodes (administrative outlaws, impunity) or the daily life of the city, considering the things that could only happen in a place with those specific characteristics attributed to Siberia (Galetti, 2012, p. 273-274).

In his work *A constituição, a literatura e o direito (Constitution, literature, and law)*, Germano Schwartz recalls the fact that this rationalization process suffered by society due to industrialization has brought consequences to the necessary humaneness when it comes to being a practitioner of the law – now overcome by technical approaches (Schwartz, 2006). In this Weber-like disenchantment of the world, it is important to bring back the human beings to their primary condition of sensitivity, far from this catastrophic state which has led humankind to the pinnacle of technical progress, but the maximum of barbarianism. Thus, the importance of Literature (Pierucci, 2003).

Sociologist and literary critic Antônio Candido states that Literature should be seen as a fundamental human right, since it is a powerful instrument of education and transformation, as it touches sensitive human issues. By connecting people with differences, Literature, as an expression of society, has the power of bringing to people's conscience that what is fundamental for the dignity of someone should also be granted to the other people. Literature has this educational aspect, which is also powerful for developing emotion, which is essential for practitioners of law to better approach a genuinely fair justice (Candido, 1995).

Thus, literature is able to offer humaneness to the Law, so it is important to understand what it means to make something humane, in order not to generalize the concept (Oliveira, 2019). This is also why authors such as Carolina Silva and Pedro Peruzzo (2019, p. 536) state that there is a human right to literature implicitly put, which should be granted by the States as a complementation of the right to a dignified life, freedom, education, art, culture and, generally speaking, the dignity of the human being.

As for Law and Literature, these two areas are deeply intertwined as they demand critical and social thinking, because of language ambiguity and the need for presently interpreting it on a daily basis by the people who work with both sciences (Schwartz, 2006). Therefore, studying these areas goes beyond the idea of academic transdisciplinarity, and encompasses the effective relation between the system of Law and the praxis within this social system, as portrayed by Literature.

Fiction works establish relations of verisimilitude to the discourses of reality in their originating cultures, which can be seen as a rich material of discussion and anticipation of specific matters of law. So, to conceive Literature as a source of interpretation of social relations – and legal problems – is to see it as a social produce capable of protecting civilization from barbarianism, similarly to the intention of positive law. In this perspective, one can think of the law, in terms of reflection, as originating from the narratives instead of the facts themselves, as François Ost states in his book *Contar a lei (Telling the Law)* (Ost, 2005). It should be emphasized that no knowledge area may be seen as more important than another – rather, they may complement one another. For instance, Literature may influence the comprehension and acceptance of the norm by the parties, which would lead the system to a certain legal and social sense of balance (Schwartz, 2006).

Additionally, to understand the Law from a purely dogmatic perspective, without hermeneutics, is to reduce it to stagnant normativity, meaningless when it comes to socially regulating human coexistence. So, to reflect on these legal aspects as represented within literary plots is to give the Law the humaneness it needs for its concepts. Literature, in turn, grants the law practitioner with the ability of analyzing its application in the reality proposed by what is narrated, while the Law lends to Literature themes that enrich its plots. This intertwining of contribution makes both areas deeply complementary. That is why the Law, especially regarding the education of jurists, needs the humanities as a whole, especially Literature (Gaakeer, 2019).

As for studies that interconnect the Law to Literature in a bilateral, dialectic way, they have knowingly started to be developed in 1908, with John Wigmore, in the United States, with the publication of *A List of Legal Novels*. Around the 1970s the *Law and Literature* movement is created, led by authors such as J. Boyd-White and Richard Weisberg, getting to Brazil with the writings of Francisco de Oliveira e Silva (Calvo González, 2019). From then on, there have been three branches which study the relationship between these areas of knowledge. The first one, “Law in Literature”, which is used in this article, deals with the

representation of legal matters in literary works. The second one, “Law as Literature”, understands the legal process as a set of narratives that contradict one another. Finally, the third branch, “Law of Literature”, which deals with the systematization of art and politics via legislation about literary production (Schwartz, 2006).

So, once it is clear that both areas can mutually benefit from this interchange, a research that follows these theoretical precepts seems promising and helps developing a critical analysis regarding human conditions and relations. As we deal with the character of denunciation circumscribed in the poetry of Casaldáliga, we use the concept of testimonial Literature, that is, the literature produced with the intent to account for the reports of authors who live the dichotomy of needing to share the experience of great catastrophes and, at the same time, not having words that express the reality lived. Testimonial literature has gained highlight since the accounts of survivors of World War II in Europe and the oppressions of totalitarian regimes in Latin America (Seligmann-Silva, 2006).

It is in this troubled threshold of chaos that was the postwar period, linked to an interventionist state, the search for excessive progress and a consumption system that, by placing the human being as the center of the universe, despises nature, that Law and Literature can be used to complement each other again. Testimony, contained in Literature, when serving to experience people in possible social contexts by placing them face to face with memory, has the power to unite past and future in the same space.

Literature is responsible, in this case, for recalling memories, so that people won't forget facts that had the potential of unsettling the essence of a human being as such. It can contribute for the development of a Law that crosses its limiting borders and reaches the whole of humanity, in this case, the third-dimension rights⁵. We understand that all testimonial literature carries with it a convergence with the Law for describing a remarkable example of the importance of the precautionary principle and

⁵ On the dimensions of law, read Paulo Bonavides' *Constitutional Law Course (Curso de direito constitucional)* (2011, p. 569).

the search for the right to having a future. The right of future generations is intrinsically linked to testimonial memory.

Thus, the analysis of these works is configured as a space for reflection and a cry for attention not only for their thematic cause, but mainly for what makes a person, in their obligation to be consciously developed in the universe, revolt and transform a reality below the boundaries of the acceptable.

3 THE AUTHOR, THE PLACE, THE CAUSE

For this research, it is interesting to analyze the interconnection between Law and Literature in the poetry of Pedro Casaldáliga. His writings are filled with revolt in favor of the oppressed people in the Brazilian state of Mato Grosso, in the context of land demarcation, in the twentieth century. In his poems, which have a strong sense of testimony, the writer claims an idea of law that Hilda Magalhães (2001, p. 290) defines as “[...] always linked to the concept of natural law, as a divine law. The denial to this type of rights for the people who should have them granted is the main motivation for suffering and inequality.” As he had lived in the oppressive context of the armed conflicts in Mato Grosso, Casaldáliga testifies the violation of human rights reserved to invisible social beings, relegated to the margins of the colony. This testimonial aspect of his lyric production greatly interests us here.

Born in Spain, Don Pedro Casaldáliga moved to Brazil in 1968, immediately settled as a missionary in the state of Mato Grosso. The writer dedicated his life to defend the oppressed minorities in the struggle between politicians, landowners, squatters, and native people in the Araguaia region. His poetry is a manifesto of the oppression lived there, especially by the Xavante people, who had lost their land due to the government’s decision during the 1960s military dictatorship in Brazil. This production resulted him several death threats and extradition attempts (Souza e Reis, 2014). Casaldáliga was an emeritus bishop in São Felix do Araguaia, doctor honoris causa at Universidade Estadual de Campinas (UNICAMP) in 2000, Pontifícia Universidade Católica (PUC) in 2014, and Universidade do Estado de Mato Grosso (UNEMAT) in 2017, as

recognition of his struggles for the minorities in the state and, above all, for education. He died on August 8, 2020.

In his first year as bishop, he wrote, in 1971, the pastoral letter “A church in the Amazon in conflict with land property and social marginalization”, containing allegations of slave labor, which were not well-received by landowners, the dictatorial government in office, or the catholic church itself, from the Brazilian episcopate until the Vatican. Knowing of the oppression that engulfed Central America in the 1980s, Casaldáliga also expressed strong support for opposing forces in Nicaragua, El Salvador, Costa Rica, Guatemala and Honduras (Casaldáliga, 2007). His decision of fighting for the minorities cost him several Vatican summons, extradition processes from Brazil, death threats, and prison, as reported in his diaries *I Believe in Hope and Justice* (Casaldáliga, 1977) and *When the Days Make Us Think* (Casaldáliga, 2007).

With regard to Araguaia, we see in Casaldáliga a commitment that goes beyond the limits of the church to reach minorities in their many needs before spirituality, such as politics, education and social justice as a whole.

When it comes to Mato Grosso, one must consider that it has been an unstable area since the earliest colonization years. The imagery of an extraction culture that, like siren songs, seduced men from the most varied places in the world with the promise of quick enrichment through mineral finds, the advance of the southern part to the detriment of the north and the subjugation of the natives are examples of political and economic elements that shaped the history of the state. This imagery of barbarism and backwardness was well taken advantage of by the government, which, with its urgency to populate a border area, benefited from the idea that uncontrolled capitalism and an economic policy based on predatory exploitation were the only means of “civilizing” the “wild areas” (Navarro, 2016).

In the conflicts over land occupation in Araguaia, part of the Legal Amazon, the ruling oligarchies found in the State a necessary ally in order to pacify the people of Mato Grosso and intensify the process of oppression. This is because, in addition to not fulfilling their role as

mediators of conflicts, state institutions such as INCRA, SUDAM and the police, with their misdemeanors, collaborated with a context of impunity by reinforcing the stereotype of geographic racism and their “southern superiority”, tax oppression for the benefit of the large landowner and to the detriment of the native, aggressive agriculture, corruption and the extermination of native Brazilians who, removed from their own land, died in other villages (Casaldáliga, 1971), among which is the case of *Marãiwatsédé*:

Marãiwatsédé also known as *Suiá Missú*, has 165,241 hectares and is native property area according to anthropological reports, as certified by the sentence by the fifth class of the Federal Regional Court of the first Region in the Civil Appeal n. 2007.01.00.051031-1:

22. The Anthropological Expert Report, abundantly instructed by historical documents, corroborates the assertions contained in the FUNAI Report, leaving no room for any doubt that the *Marãiwatsédé* Xavante indigenous community was stripped of the possession of their lands in the sixties, from the moment when the State of Mato Grosso started to issue title to non-Indians, driven by the expansionist spirit of ‘colonization’ of that Brazilian region.

23. The evidence in the file reveals, scandalously, the spurious conduct practiced by the leaders of the agribusiness company *Suiá-Missu*, in 1966, when they promoted a true expulsion of the indigenous people from their lands. First, subjecting them to the extreme need for survival, due to the accentuated environmental degradation, which resulted in the drastic reduction of livelihoods and their subsequent allocation in a small wetland where they were exposed to numerous diseases.

24. Subsequently, concealing the acts of violence in an alleged humanitarian spirit, they articulated the transfer of the *Marãiwatsédé* Xavante indigenous community to the Salesian Mission of São Marcos to, a few years later, request from FUNAI a certificate attesting to the absence of indigenous villages in the referred land in order to support obtaining funds from SUDAM.

[...]

26. In this context, it was clear that the possession of all Defendants over the area under litigation is unlawful, and in bad faith, because they knew that this was land traditionally occupied by the *Marãiwatsédé* Xavante people, so much so that it was later recognized by act of the President of the Republic. Therefore, it is an illicit possession, and in bad faith, of the Union’s immovable property, a circumstance from which no right of retention arises (BRASIL, 2010, translated).

Located in Mato Grosso, between São Félix do Araguaia, Alto Boa Vista, and Bom Jesus do Araguaia, the territory was taken over by the Brazilian Air Force in 1966. In this endeavor 289 natives were relocated to the village of São Marcos, where many were decimated due to an outbreak of measles. The land, already owned by the Ometto family, was negotiated with the Italian oil company AGIP in 1980 (Marãiwatsédé, 2018).

During the United Nations Conference on Environment and Development (ECO 92), held in Rio de Janeiro in 1992, representatives of the oil company, cornered by great international pressure, pledged to return the land to the indigenous people. However, through an articulation facilitated by the then manager of the farm, the land passed into the hands of powerful people in the region, such as farmers, politicians and even a former judge of the Court of Justice of Mato Grosso (Marãiwatsédé, 2018).

In 1998, the president of Brazil, Fernando Henrique Cardoso, ratified the territory as native protected land, but then it already was the most deforested area in the Legal Amazon. In 2010, the Federal Court determined the beginning of the eviction of non-Indians, which intensified the death threats against Bishop Casaldáliga. Since then, several organizations have shown solidarity with the Catalan writer, who was nominated three times for the Nobel Peace Prize.

Operation *Pluma*, developed for the eviction of lands, was classified as a real war operation by ministers José Eduardo Cardozo and Gilberto Carvalho. The total eviction was only completed in January 2013. The returned land, however, is minimal in relation to that from which the Indians were removed decades before (Marãiwatsédé, 2018).

In attempt to repair the irreparable environmental damage suffered by deforestation over the years, the Federal Attorney Office filed forty-seven actions to recover 26,000 hectares of *Marãiwatsédé's* Amazon forest. If the responsible parties did not recover the indigenous population with their land or if the justice overrules the unenforceable measure, an estimated total of R\$ 147,182,655.00 would be requested as compensation. Undoubtedly, these actions seek enforcement of the aforementioned Public Civil Action, deemed valid for the eviction of non-

indigenous people, in addition to the reforestation of places illegally damaged.

Unhappy with how conventionally the lands and their ownership were treated by the State, Casaldáliga finds in the idea of private property his *leitmotiv* to question the state orders.

4 THE MATTER OF PROPERTY

The poems “Cemetery of the wildlands” and “Our land, liberty”, firstly published in 1978, represent traces of this narrated fight Pedro Casaldáliga fought for the ones in need. They also present a pertinent reflection on legal naturalism, especially regarding the property rights, as a natural right, and the idea of fairness and unfairness.

The first poem is made in a structure of contrasts in which, sometimes the lyrical subject describes his earthly desires, sometimes the spiritual ones. Thus, there is a spatial dichotomy: the sacred and the profane, the sacred being guided by the precepts of Western Christianity and the profane determined by the daily struggle. The ideal balance of the world is the possession of the desired good, in this case the land, in the space of the profane, not out of obedience to the regulation of this world, but mainly as observance of the orders coming from heaven.

Cemetery of the Wildlands

To rest
I only want
this wooden cross
like rain and sun
under these six feet
and the Resurrection!

But to live
I really want
my share
of your land:
'cause the land is not yours,
you doctor Nobody!
The land belongs to all
because it belongs to God!
To rest... (Casaldáliga, 1978, p. 201).

The lyrical subject expresses his voice in the poem, starting from his needs: a place to be buried. Six feet under, where the land is not demarcated, he will rest under the symbol of Catholicism that is used by

the oppressed, as a plea for the liberation theology⁶, which the bishop stands for. Peace is the result of faith, and in this case, to Western Christian ideology, which has as its greatest symbols the cross and resurrection. It does not take much to achieve peace, what is really essential comes from our relationship with God, not from material goods.

When dealing with his earthly worries, however, the lyrical subject claims the land he deserves. It should be said that this idea of possession is seen not as the idea of richness and accumulation, but of what is necessary to grant a dignified existence. The land belongs to all, and as a good created by God, it should not be held by a rich, exploratory minority.

The lyrical subject conceives this right as certain, that is, indisputable, a fundamental warranty of the individual. This recalls the discussion on legal naturalism, which, based on the union of law and rationality, seeks for a fairest law. It is an analogy to the “law of nature”. In this perspective, the law, which thinks of the common good as the meaning of the just, is natural, immutable, inviolable and universal, hence its competence to give limits to state absolutism (Bobbio, 1999).

In his studies, Bobbio (1999) highlights, in the legal naturalist movement, two types of law: positive law, which is empirical, related to state sources, and natural law, connected to the concept of justice as a metaphysical, transcendental, immutable phenomenon. The latter is supposedly superior to positive law, which should, thus, adjust to its ideas. The history of humanity has several different aspects of legal naturalism: in the classical age, there was cosmological legal naturalism; in the middle ages the theological one; in the 17th and 18th centuries the rationalist one, and the contemporary one in the 20th century.

⁶ Christian theological current that understands the teachings of Jesus as a search for the interests of the oppressed. On this, read *Teologia da Liberação (Liberation Theology)*, by Gustavo Gutiérrez (1996), and *A teologia da libertação balanço e perspectivas (Liberation Theology balance and perspectives)*, by Leonardo Boff, José R. Regidor and Clodovis Boff (1996). The relationship between Pedro Casaldáliga and liberation theology is further explored in *Entre a cruz e a foice: Dom Pedro Casaldáliga e a significação religiosa do Araguaia (Between the cross and the sickle: Dom Pedro Casaldáliga and the religious significance of Araguaia)*, by Mairon Escorsi Valério (2007).

In the poems of Casaldáliga, it is possible to find aspects of legal naturalism, as a review of the theological version from the Middle Ages, with God as the main source for natural fairness, but in the Brazilian forests of Mato Grosso. In the time of Casaldáliga's life, this type of legal naturalism is redefined as a means to empathy and solidarity, that is, an attempt to wield the law for the benefit of the majority, not only the landowners. Faith is seen within certain boundaries, that is, the law belongs to all, and the ideas of penalty and contrition are gone, for it had been too extreme and had caused serious harm for society. So, based on the ideas of Saint Augustine, "[...] The City of God is a place ruled by the divine law, which contrasts with the city of men, ruled by human laws", and of St. Thomas Aquinas, "the incorporation of divine laws by human laws is the most important aspect to be accomplished by the Law" (Bittar and Almeida, 2005, p. 224). The ideal of the Law should be to represent the power and the order of God. Based on faith, on the duty of men to themselves, their community, and, above all, God. In this perspective, the human legislation should be a consequence of Christian values. Positive Law should converge with the will of God and His precepts. By not defining what is necessary for the rest mentioned in the poem, the lyrical subject makes it clear that the reader already knows about it. It is not necessary to argue about what the spirit's need are. So, the only doubts left are regarding the law and the land. It is about this law that Casaldáliga needs to convince the reader, as he fights the institutions that oppress those they should defend:

[...]
But to live
I want to have land.
With or without Incra,
with or without law.
For another law, of a higher origin
has already given Earth for all of us
for all the poor
with no voice or opportunity;
our children
are people too!
To rest...

But to live
I demand land.
Money and fences
will not stop us.
A thousand angry machetes

can cut very deep.
Two thousand arms together
can surround land and sky
To rest...

But to live,
land and freedom
I need to have.
I do not ask for charity
but I won't buy what is already mine.
For Sudam and whatever else
you can sell yourselves:
but you cannot sell people,
and you cannot buy God! (Casaldáliga, 1978, p. 201)

The relation between land and human dignity rights, as defended by the liberation theology, was stated in 1981 in a document called *The Fight for Land in the Bible (A luta pela terra na Bíblia)*, by the Pastoral Land Commission (*Comissão Pastoral da Terra –CPT*), uses Biblical episodes, from *Genesis* to the *New Testament*, on rural lands:

In the Bible we learn, among other things, - that *the first sign of God's blessing is the land*. The land is the first promise that God made to Abraham (Gen, 12, Iss). God promises the land, because the whole land belongs to God (cf. Ex. 19,5). And entry into the promised land was seen by the people as a first sign of God's deliverance and covenant (cf. Deut.1,8; 6 Iss). [...]; - "Whoever helps and supports the struggles of the people of God, receives the blessing of God.; - Whoever oppresses the people receives the curse of God". –Land, for the men of the Bible, was the place and reason for faith and confidence in the presence of God, and for hope in possession of the definitive land of the Kingdom... Hence, we can understand that the whole set of Old Testament laws are a kind of agrarian justice code, always based on the reality of the land, and revolving around the lives of a people who have the possession and use of the land as a starting point of their faith in God, and their existence as a people (Comissão Pastoral da Terra, 1981, translated, emphasis in the original).

In the Brazilian history, property rights recall the colonial times, when, for many years, the government granted financial incentive for people to move from the coastal southeast, south and northeast regions toward the west, in the central-western and northern regions of the country. However, it is important to recall that most of this land given out by the government were already populated then.

The absence of clarity in those laws of property generated further discrimination toward the native inhabitants of the western lands,

especially quilombo black and native indigenous peoples. Thus, it consecrated the normalization of violence, since, in a way, all the parties “owned” the land.

With the negligence of the State, which used to act minimally in order to solve the issue, society gained a different ally: the Catholic church in its most progressive wing. The latter got involved in the creation of rural syndicates in the 20th century by means of the Specialized Catholic Action, fighting for the oppressed minorities in these regions. The leaders of the dictatorship installed in Brazil for over 20 years in the late twentieth century persecuted these religious activists, such as Pedro Casaldáliga, who, facing the disarticulation of several institutions and civil societies, made the Catholic church a voice of resistance to the intrinsic injustice in the context, mainly regarding land misappropriation.

In this context of ignorance in relation to the identity of the true owners of those lands, it is not difficult to infer that those who lost the land, for the most part, were the weakest ones, politically. The expulsion of the first landowners was often favored by the government itself. It must be remembered that, as far as the indigenous population is concerned, land is not just a space for cultivating crops and establishing housing. In this case, the question of land is intrinsically linked to their origins, so, to deprive them of their land is to deprive them of the preservation of their culture.

About this, it is interesting to mention the Greening process from the US. It grants to American conventions and declarations, such as the San José Pact of Costa Rica, the concern with environmental law, which is not expressly provided, but as long as it is a consequence of the violation of human rights contemplated in the provisions of these institutions. As for indigenous lands, by action or inertia, the State violates the right to life, housing, and health. This harms personal integrity, and creates serious spiritual damages to the displaced indigenous from their land, since such eviction can also be characterized as a violation of the recognition of legal personality (Mazzuoli and Teixeira, 2013).

Also, on the land issue, John Locke (2005), having foreseen the social organization as a result of will and of previously determined agreements, defends that the agreement between society and the State is

limited, that is, not all rights may be available, alienated, and among these inalienable rights, there is property as a natural right of man.

Locke (2005) considers convenient points of view, such as, if there were no natural right to property, anyone could become a slave. The defense of the right to property does not claim to protect the most fortunate and their lands, because Locke prescribes that property is what men have, both regarding material goods and personality itself. Undoubtedly, the very first property of every individual is his or her own body. If there were no natural property, slavery would be justifiable if the majority so desired.

This privileged position of property rights is incorporated in the concept of land rights by Casaldáliga, in whose writings the theme of the struggle for a land devoid of injustice is recurrent as a collective obligation, something whose foundation is in divine laws that transcends the very being human. The right to land, thus, is conceived as a natural right, fundamental to the condition of the individual, with no prospect human dignity if it is disobeyed. Another example that deals with the land issue as a usurped natural right, which permeates the author's entire work, is circumscribed in the poem called "For all coconut breaker women in the Northeast", published in 1989:

A coconut on the chest,
a coconut in the hand,
the milk of hunger
of the children of no.
Palm tree,
that belonged
to us,
but no more;
the broken coconut,
absent,
peace is broken (Casaldáliga, 1989, p. 36).

Casaldáliga's conception of property as a natural right is close to what would later be preserved in the Brazilian Constitution of 1988, which, in addition to the fundamental right to property, provides for the need to fulfill its social function.

Art. 5 All are equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreigners

residing in the Country the inviolability of the right to life, freedom, equality, security and property, in the following terms

[...]

XXII - the right to property is guaranteed;

XXIII - property shall serve its social function;

XXIV - the law shall establish the procedure for expropriation for necessity or public benefit, or for social interest, by means of a fair and prior indemnity in cash, except in the cases provided for in this Constitution; (BRASIL, 1988, translated).

This right is intrinsically related to family and religion as social pillars that have sustained society for years (Coulanges, 2001). However, the right to property has become individualized and has lost its communal character, and has become private property due to production systems and colonization through land domination, for example (Costa, 2003).

Land, as Locke (2005) asserts, becomes dominated by the man who transforms the raw material, and not simply by those who conquer it. On the other hand, there is social function, which considers property not as a right, but as an instrument of public and collective function.

Therefore, there is no prospect of human dignity if it is disobeyed. It is, then, a set of rights conferred to all individuals in common, of any society on Earth, since these ones aim at protecting the minimum conditions the human being needs to have, to live in a healthy, prosperous and full way, this is also seen in the reading of “Our land, liberty”, published in *Migrant Anthology*:

This is our Earth
Liberty,
humans!
This is our Land:
of all of us,
brothers!

The Land of Men
on it walk the people
barefoot and poor.
On it are born the people, of it
to grow with it
As logs of Spirit and Flesh.
Who burry themselves in it
as seeds
of Ashes and Spirit
to make it fertile as a wife mother.

Who give themselves to it,
every day,
and give it to God and the Universe,
in thought and sweat,
in their happiness,
and their pain,
with the glance
and the scythe
and the verse... (Casaldáliga, 1978, p. 192-193)

In this view, human legislation should revolve around Christian values, that is, faith, the duty of men to themselves and to their community, and, above all, to God. Positive law should converge with God's will and His precepts (natural law). There is, therefore, a need to enhance the natural law to the detriment of the positive law. In this conception, human laws should reflect the values from the divine laws, thus, the existence of a law that punishes those who harm the other should be derived from the precept taught by the example of Jesus that one cannot desire or do, to others, what one does not want for themselves. The poem above goes on:

Prostitute people born
of the same mother
cursed children!
Curse thy doings
thy fences
that surround thou
within
fat
alone
like porkers,
closed off,
with thy fence wires and nobility titles
out of thy love
to thy Brothers!

(Out of their rights,
their children
and their crying
and their dead ones
their arms and their rice)

Closing them off
Out with the brothers
and God!

Cursed be
all fences!
Cursed be all
private property
that hinder us
from living and loving!

Cursed be all the laws,
 created by few hands
 to cut fences and cattle
 and make the Earth a slave
 and the humans all slaves!

Out Earth is another one, men, all!
 The human free Land, Brothers! (Casaldáliga, 1978, p.
 192-193)

One is able to see, therefore, in Pedro Casaldáliga, the complaint in favor of those who have become defenseless in the face of the state institutions that were supposed to protect them. We understand, hence, that the State, through positive law, justifies harmful practices toward the natural rights of individuals.

It should be said, however, that most of Pedro Casaldáliga's poems were written at the time of the civil-military dictatorship, marked by oppression and the absence of human rights. With the democratization period, Brazil regained to the model of constitutionalism that emerged after World War II. Since then, positive law has been seen under the values of justice from fundamental rights and principles (Alexy, 2009).

However, this approximation that the Constitution promotes between law and justice is the approximation to certain social and political values of justice (Ferrajoli, 2015), and not to any ultimate conception of justice present in legal naturalism as a whole.

For this reason, not even the contemporary notion of constitutionalism does overcome legal naturalism and the criticism by Pedro Casaldáliga, either because it does not bring about effective changes in power relations, or because, despite the social function, it maintains the private notion of property, which is harshly criticized in "Our Land, Liberty".

His conception of the natural right to land and his negative view on legal institutions remains constant even after some time of the promulgation of the 1988 Constitution, in poems published in *Adverse Verses*, such as in "Bury me in the ground":

Bury me in the ground,
 like all the workmen
 who stumbled because of this war
 nameless and coffin less.

I only claim one posthumous right
of feeling liberated all the land
on the communal registry office of the chest.
(Casaldáliga, 2006, p. 98)

As Sophocles warned in his work *Antigone* (SÓFOCLES, 1999), it is clear that conflicts between what is considered fair, natural law, and what the State imposes, positive law, are still present in contemporary times. This is the main denunciation contained in the poems analyzed here: an oppressive expropriation legitimized by an impartial and corrupt state that disconnects institutions from their real objectives in order to manipulate them for the benefit of a political system that had as its project the extinction of indigenous peoples, such as is revealed in the report of the National Truth Commission (*Comissão Nacional da Verdade*) (Brasil, 2014).

Regarding this struggle, when he was awarded the title of Doctor Honoris Causa by *Universidade Estadual de Campinas* in 2000, the bishop, in his speech, pointed out:

Not this place-time of exclusion for the majority and the narcissistic privilege of the minority. But a place where the whole human [...] family fits. No to neo-liberal, homicidal, suicidal globalization; yes to the globalization of solidarity for the construction (procedural, certainly, and even dialectic) of that equality in the dignity, rights and opportunities of people and peoples, which shall make Humanity one, even if plural in its otherness (Casaldáliga, 2000, translated).

Thus, as it should be synthesized, in what we see as “Pedro Casaldáliga’s legal naturalism”, positive law should seek divine natural law. However, as the author warns in his poetics, the laws, “cursed”, are used by the State to justify private property, which is essentially contrary to natural law. In other words, according to the poet, state law is, above all, a tool to prevent the realization of divine justice.

5 CONCLUSION

Science states that man is the only animal endowed with rationality. The Portuguese-language Michaelis Dictionary gives the adjective “rational” the qualification of “One who has the faculty of reasoning. What is only conceived by reason. According to reason; reasonable, logical.

Easily apprehended by intelligence.”. Therefore, it is understood that this ability should imply a relative obligation to humans in relation to the planet on which they live, not only to keep them in favorable conditions for themselves, but also for future generations.

More than twenty centuries have passed, and yet, the human being still shows difficulties to deal with this responsibility, either with the environment or with their neighbor. Although legislation often contributes significantly to discourage, with its punitive character, ill-treatment, it still does not seem to be enough to stop the actions of the person who acts as an unconscious self-destructer, even when is used as a way to legitimize this destruction, to the detriment of the natural fairness.

That is why it is necessary to make the human being turn, once again, to reflection. And it is in this sphere that Literature must ally itself with the Law, not only the positive one, as a propitious space for two actions capable of changing this unpleasant reality. First, it is necessary to consider that the visionary dimension of art, of reproducing and discussing, in the sphere of fiction, what could be, the search for natural justice, is essential in this sense, since it gives society the opportunity to feel and analyze the consequences of reprehensible acts. Secondly, it is also necessary to think of it as an important space for criticism.

It is known that understanding justice as indisputable only by virtue of its dogmatic character legitimizes a hierarchical application and hides it, more as an instrument of power and keeper of a purposefully immutable social structure than with its real function, which is to regulate rights and duties in order to ensure the social well-being. This behavior develops an unfair context that creates the emergence of great people in defense of forgotten minorities, such as Don Pedro Casaldáliga.

Thinking about his opinions, we are able to see the poet as a social being, whose creation reflects where he is inserted. According to Bosi (2000, p. 114, translated), “a poet does not live in another History, distant or alien to the history of social formation in which he writes”. Under this bias, we see in Casaldáliga’s poetry the portrait of an unfair context, full of problems, which, although concerning the reality of a minority inserted in the wilds of Mato Grosso, his criticism goes beyond the geographical

limits to account for diverse peoples who, once neglected by public authorities, find themselves at the mercy of the “law of the strongest”.

It should be said that the possible topics for discussion from Casaldáliga’s writings (as an example, civil disobedience) are not exhausted here. Finally, we emphasize that, with his poetic and globally acclaimed language, Casaldáliga balances denunciations and legal conceptions that require a reader that goes beyond the role of a mere spectator of artistic representations and their beauty, in order to achieve an engaged behavior, sensitive to the maximum function of art, which is to disturb the human being.

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