

Artigo Científico

Irregular exploration of underground water resources in the city of Pombal: the role of the public ministry in creating an effective supervision mechanism

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ABSTRACT: The work studied the exploration of underground water resources in the municipality of Pombal, as well as the negative consequences of this capture, when carried out without observing the technical and normative specifications. Based on the hypothesis that the lack of inspection, as well as the scarcity of surface water, made the population and the productive sector to seek even more this type of resource, the role of the Public Prosecutor's Office, which is an inspector of the legal system, became evident. To act in the protection of the environment and demonstrate the attribution of this body to act as an inducer in the articulation of the public entities involved, in order to adopt a pedagogical stance on the problems detected and to stop environmental irregularities. To this end, the research argued that the conduct adjustment term is an effective extrajudicial legal tool to correct the environmental offense and found that it can be used by the Public Ministry for this purpose. The work limited the object of study to the Municipality of Pombal / PB by the size of the territorial extension, used the documentary method to study the environmental norms and legal procedures related to the abstraction of groundwater and used explanatory research, with the purpose of identifying the factors responsible for the social phenomenon. The work presented, as a final product, a model of conduct adjustment term to be forwarded to the Pombal Public Prosecutor's Office, for the protection of the environment.

KEY WORDS: Groundwater. Exploration. Public ministry.

INTRODUCTION

Water is a finite asset and indispensable to the maintenance of life. It is not for any other reason that the human right to access drinking water is currently supported. The Leaving No One Behind Report, presented by the United Nations at the 40th Session of the Human Rights Council, in Geneva, Switzerland, on March 19, 2019, indicates that approximately 2 billion people lack an efficient water supply system (UNO, 2019).

In the interior of the Brazilian Northeast, especially in the State of Paraíba, the difficulty of access to water has caused profound problems, with repercussions in the fall of agro-industrial production, in the triggering of serious diseases and in disrespect for the environment. Just consider that on April 2, 2019, the Official Gazette of the State of Paraíba published Decree No. 39,080, of April 1, 2019, signed by the Head of the State Executive Branch, establishing, due to the drought,

an emergency situation for 180 days in 177 of the 223 municipalities in Paraíba, including the municipality of Pombal. The emergency decree represents a mechanism for reducing bureaucracy in the Public Administration, with the primary aim of benefiting the population directly affected by the lack of rain.

In order to circumvent the unavailability of water, the desire of agro-industrial enterprises to capture and exploit underground water resources is growing. In fact, in most cases, resorting to "artesian wells" seems to be the lifeline for those who do not have an adequate water supply system available, making at least human consumption and animal drinking possible.

As if that were not enough, in the region polarized by the Municipality of Pombal, activities aimed at agroindustry are performed, in the great majority, in a family economy regime, in such a way that the scarcity of water, in periods of rainfall irregularity, compromises the

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success of enterprises, as there is no alternative plan to overcome the problem.

It happens that, when carried out without the proper technical specifications, the indiscriminate and irregular prospecting of water resources has the ability to bring numerous problems to the situation that already presents itself as an emergency.

In addition to enhancing environmental pollution, the disordered construction of wells in disobedience to technical standards (NBR 12244 and NBR 12212) can also lead to the depletion of aquifers, the salinization of submerged water resources and the spread of infectious diseases. It is not unnecessary to note that the reservations mentioned, when inserted in regions without sanitation, represent a fertile scenario for the contamination of nature, especially the subsoil.

Therefore, the supply of water, through the exploitation of underground resources, must comply with the scientific parameters provided by engineering and the legal discipline underlying the licenses granted by regulatory agencies and environmental agencies, under penalty of catalyzing deleterious effects in economy, society, environment and population health.

In Paraíba, as will be seen in the course of the work, the policy of control and inspection by the public bodies in charge of licensing water abstraction activities is still timid (SUDEMA - Superintendence of Environmental Administration and AESA - Executive Water Management Agency) and to grant the use of water resources (AESA - Executive Water Management Agency). Inspection efforts are concentrated, in most cases, in urban centers, looking for irregular drilling in condominiums, buildings, industries and enterprises that provide services related to the relevant use of water, such as car wash.

However, in municipalities in the interior of the State of Paraíba, such as Pombal, whose territorial area covers 889,493 km² (IBGE, 2018), the result of an extensive rural area, there is not the same regulatory impetus. For this reason, the vertiginous growth of clandestine drilling, combined with the lack of rigor in the control of these practices, largely due to the political condescension towards the populations affected by the drought, determines the performance of the Public Prosecutor's Office, fiscal par excellence, in the articulation, in each sphere federative, of the public institutions involved.

The Public Ministry was constitutionally legitimate to act to protect the environment. Thus, a sensitive environmental problem has been identified that needs to be urgently addressed, and the ministerial body should encourage the establishment of a decentralized control system that will allow the monitoring and exploration of groundwater and demand compliance with legal norms and technical rules by users, for the sake of nature and sustainable development.

At the local level, the Public Ministry of the State of Paraíba is represented by the Pombal Public Prosecutor's Office, whose duties are divided into three Public Prosecutor positions. The institutional mission of acting in the protection of nature and the preservation of environmental quality rests in the 3rd Position of Prosecutor of Justice (Resolution of the College of

Attorneys of Justice of the Public Ministry of Paraíba - Res. CPJ / MP n° 21/2018).

The work equips the local Public Prosecutor's Office, in particular the body responsible for protecting the ecologically balanced environment, with legal tools, such as the TAC, that build a decentralized control network for the implementation of the environmental police power, without forgetting the conditions local social and economic sectors, prioritizing educational measures over purely sanctioning solutions.

The lack of standardization in the technical terms used to designate the use of groundwater, for many years, caused confusion in the analysis of data related to the flow of the work and in the technical specifications to be followed. Studies that used expressions such as *cacimbão*, *cistern*, *Amazonian well*, mixed with research that dealt with similar situations such as *cacimba*, *shallow well*, *artesian well*, among others, generating a terminological symbiosis that hindered comparative analyzes.

For this reason, works focused on Hydrogeology, as a science focused on the study of geomorphological phenomena that sees water as the main modeler, took care to standardize the nomenclature used in the abstraction of groundwater. According to Vasconcelos (2014),

[...] in view of the studies carried out by different researchers involving underground water resources, it appears that groundwater abstraction receives different names, being mentioned terms such as *cacimba*, *cacimbão*, *amazon well*, *cistern*, *deep well*, *shallow well*, *artesian well*, among others. Thus, the lack of national standardization of terms can lead to difficulties in the interpretation of data in certain situations because of the differentiation of concepts.

Thus, to avoid conceptual imprecision, notably because tradition, as a rule, tends to name all water sources as "artesian wells", it was customary, scientifically, to divide the wells into two broad categories, namely, the excavated wells and tubular wells.

In principle, the well that has a diameter greater than 0.5m, with a depth that varies from 01 meter to tens of meters, is dug, depending on the geological formation lithification.

In turn, the tubular wells are characterized by the tubular coating, with a diameter measured in inches. Depending on the position of the hydraulic load of the aquifer, the tubular wells are subdivided into phreatic waters, whose abstraction arises from free aquifers, and artesian, which captures water from confined aquifers. The latter can still be classified, according to the potentiometric level in relation to the topographic surface, in non-gushing artesian, when there is a need to pump water to the surface, and gushing artesian, in which, naturally, the water enters the surface, without pumping mechanism.

The work is restricted to the capture of submerged water sources carried out based on the specifications defined by the Brazilian Association of

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Technical Standards (ABNT). When dealing with the construction of a well to collect groundwater, the technical standard (NBR 12244) defines a well as a “groundwater abstraction work carried out with a probe, by means of vertical drilling”.

Furthermore, the standard that sets the criteria for the design of a well to collect groundwater (NBR 12212), describes a research well as “a well drilled with the purpose of evaluating the geology and hydrodynamic capacity of the aquifer”.

The definitions presented are extremely relevant, since those who perform well works, individuals or companies, usually drill the soil several times at random, in the expectation that some of the attempts will have the desired effect, with clear water and adequate flow.

The activity described, therefore, needs to be controlled in order to adjust the drilling to the technical projects adopted by ABNT, even in cases where prospecting is not viable, due to the low flow or the salinity of the water accessed.

Having presented such conceptual premises, it is clear that, in a translucent form, the Federal Constitution of the Federative Republic of Brazil instituted, among the goods of the States, the surface or underground waters, flowing, emerging and in deposit (article 26, I).

Meanwhile, emphasizing the cooperative model of federalism implanted in Brazil, the constituent legislator predicted that the Union is responsible for legislating privately on waters (article 22, IV), but emphasized the competing legislative competence of the States in matters linked to nature conservation, soil defense and natural resources, protection of the environment and pollution control (article 24, VI). As stated, it is up to the Union to legislate on waters, but it is up to the States and Municipalities, in partnership with the Union, to protect the environment and fight pollution in any of its forms (article 23, VI).

Therefore, the lack of chambers of verifiers and legislative assemblies for legislation on water resources does not prevent City Halls and State Governments from developing an inspection policy, at local and regional levels, which protect the ecologically balanced environment and combat a risk situation . .

The legal concept of police power is extracted from the National Tax Code, not restricted to Tax Law, as it covers the administrative sphere in its entirety. The tax diploma says:

Article 78. The power of the police is considered to be an activity of the public administration which, by limiting or disciplining law, interest or freedom, regulates the practice of an act or abstention in fact, due to the public interest concerning safety, hygiene, order, customs, the discipline of production and the market, the exercise of economic activities dependent on the concession or authorization of the Public Power, public tranquility or respect for property and individual and collective rights.

It is seen that the police power represents a duty of office of the public administration, embodied in the mission of limiting the exercise of individual rights, in the public interest. In the environmental area, this imposing task, arising from the control of abusive activity, gains special importance, since nature conservation must be continuously pursued by society, but also by the Government, in homage to the principle of the public nature of environmental protection. According to MILARÉ (2005, p. 188),

[...] the Government no longer has a mere faculty, but is bound by a real duty. As for the possibility of positive action for defense and preservation, its performance is transformed from discretionary to linked. It leaves the sphere of convenience and opportunity to enter a strictly delimited field, that of imposition, where there is only one and no more than one behavior: defending and protecting the environment.

It is necessary to conclude, therefore, that not only the State, but also the Municipality, the obligation to inspect the adequate use of environmental resources, including groundwater, is imposed, safe from any pollution route. The Superior Court of Justice, on August 25, 2009, recognized the competence of the municipalities, in the exercise of the power of the environmental, urban, sanitary and consumption police, to inspect the exploitation of water resources in their territory, consequently restraining drilling irregular artesian wells. The Special Appeal Judgment No. 994.120 - RS was issued as follows:

ADMINISTRATIVE. IRREGULAR ARTESIAN WELL. SUPERVISION. OBJECTIVES AND PRINCIPLES OF THE NATIONAL WATER RESOURCE POLICY LAW (LAW 9.433 / 97). COMMON COMPETENCE OF THE MUNICIPALITY. 1. Hypothesis in which the limits of municipal supervisory competence related to the drilling of artesian wells and their exploration in particular are discussed. 2. The Municipality assessed the defendant and sealed its artesian well, due to the lack of authorization and non-compliance with state legislation that prohibits the exploitation of water resources, by the private individual, in that area. 3. The court of origin considered that the competence of the Municipality to supervise refers exclusively to the protection of public health. It turns out that the sealing of the well did not result from this competence (the water is proven to be potable, without risk to health), but because of non-compliance with the rules governing the exploitation of water resources, published by the State. 4. There is no controversy regarding the local legislation, which, according to the State Public Ministry, prohibits the drilling and

exploration of an artesian well in the area. 5. The judgment under appeal is based on the powers established by the Law on the National Water Resources Policy (Law 9.433 / 97), even if interpreted in the light of arts. 21, XIX, and 26, I, of the Federal Constitution, which attracts the competence of the STJ. 6. Law 9.433 / 97, adopted by the Court of Justice in its reasons for deciding, clearly points out the competence of Municipalities for the management of water resources (art. 1, VI) and for the "integration of local basic sanitation policies, of use, occupation and conservation of the soil and of the environment with the federal and state policies of water resources "(art. 31). 7. Arts. 1, VI, and 31 of the Law on the National Water Resources Policy must be interpreted under the constitutional prism, which establishes the common competence of the Municipalities, concerning the protection of the environment and the supervision of the exploitation of water resources (art. 23, VI and XI, of the Constitution). 8. The Law on the National Water Resources Policy has meant a remarkable advance in the protection of water in Brazil and must be interpreted according to its objectives and principles. 9. There are three dorsal objectives of Law 9.4433 / 97, all of which have an impact on the solution of the present demand: the preservation of the quantitative and qualitative availability of water, for present and future generations; the sustainability of water uses, admitted only those of a rational nature; and the protection of people and the environment against critical hydrological events, a desideratum that gains greater dimension in times of climate change. 10. In addition, the Law on the National Water Resources Policy is based on a series of fundamental principles, including the principle of public dominance among those directly affecting the dispute (water, the law expressly provides, is well public domain), the principle of finitude (water is a limited natural resource) and the principle of decentralized and democratic management. 11. Groundwater is an "environmental resource", in the exact terms of art. 3, V, of the National Environmental Policy Law (Law 6,938 / 81), which obliges the interpreter, in resolving disputes associated with the management of water resources, to make a joint reading of the two legal texts, in genuine exercise dialog of the sources.12. It is evident that the indiscriminate and disorderly drilling of artesian wells has a direct impact on the environment and on the availability of water resources for the rest of the population, today and tomorrow. Done without control, it also puts public health at risk, due to the lack of treatment, when strict. 13. In summary, the Municipality has the competence to supervise the exploitation of water resources, both surface and underground, in its territory, which

certainly allows it to restrain the drilling and exploration of artesian wells, in the legitimate exercise of its power of urban, environmental, sanitary and consumer police. 14. Special appeal provided.

(STJ - REsp: 994120 RS 2007 / 0234852-0, Rapporteur: Minister HERMAN BENJAMIN, Judgment Date: 8/25/2009, T2 - SECOND CLASS, Publication Date: DJe 27/04/2011).

In this way, the affixing of water between State assets does not prevent municipalities and the Union itself from acting to protect water resources against polluting practices and irrational uses. Municipal entities must promote a policy of action concerned with natural resources, removing possible illicit acts and preventing environmental damage. Local policy cannot exist on its own, as it must be compatible and in tune with national and state guidelines, in order to establish a network of administrative measures that safeguard the ecologically balanced environment.

The normative parameters and basic guidelines for public water management were condensed in Law 9.433 / 1997, responsible for the creation of the National Water Resources Policy (PNRH). The legal provisions stand out in 4 (four) pillars of public policy aimed at the legal regime of water.

As a foundation of the national plan, the law provides that water, in addition to belonging to the public domain (principle of public dominance), is a limited resource (principle of finitude) and managed in a decentralized manner (principle of decentralized and democratic management), with the participation of public authorities, users and communities (article 1, I, II and VI).

Therefore, the law recognizes that water, even if it is economical, is limited, even if it is renewable. Water use can be measured economically and involves rational consumption, without excluding the enjoyment of life from the poor population.

In this context, it is urgent to consider that, since 2010, the General Assembly of the United Nations (UN, 2010) approved Resolution 64/292, without contrary votes, which recognizes access to clean and safe water as a fundamental human right.

The existence of the human being can only be considered worthy when, among other effective rights, access to drinking water is made available. It follows from this that the objectives of the National Policy, as the second backing of the Law, converge to ensure that the current and future generations have the necessary availability of water (article 2, I). Corollary to the principle of equity or the intergenerational pact, the mentioned device makes it clear that the rational exploitation of water resources must be concerned with the future, preventing environmental tragedies and the depletion of this natural resource.

The third key point of the aforementioned law is perfected in the implementation of national policy guidelines, in particular the integration of water resources management with environmental management (article 3, III). There is no point in planning the use of water dissociated from the holistic understanding of the environment. Adequate access to water can be

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compromised by the lack of sanitary sewage, deficiency in urban cleaning, incorrect disposal of solid waste, among other environmental variables that cannot be separated from the water issue.

Finally, the fourth and final pillar of the law rests on the enumeration of instruments of the National Water Resources Policy, which are nothing more than the tools indicated by the legislator to implement public policy. The work was particularly interested in the granting of rights of use and the Water Resources Information System. The institute for the granting of rights of use, to be generally accepted by the States, has the function of ensuring the quantitative and qualitative control of water uses. The Water Resources Information System, on the other hand, handles data on water resources, as well as indicators that influence their management.

It is from these nuances that the problems involving the capture of groundwater must be addressed. The use of submerged sources must be implemented with an eye towards the finitude of this natural resource, the need to listen to the affected population (democratic management), knowledge of the economic conditions of the region, communication between environmental agencies and the Water Resources System and, finally, the proper use of the granting institute.

Aware of these circumstances, it is possible to think of a legal instrument that corrects practices that violate environmental norms, considers the specific conditions of the semi-arid region of Paraíba and refreshes the consequences of the environmental problem already caused.

The quadrant of state norms that result from the Federal Constitution on water must observe the basic outlines of the National Water Resources Policy. By constitutional discipline, from this broad conjuncture, the administration and management of groundwater falls under the aegis of the States.

As seen, through the granting institute, the capture and exploitation of groundwater is released by the state agency that integrates the Water Resources System. In Paraíba, Law 6,308 / 96 instituted the State Water Resources Policy, with its own objectives, principles and guidelines. Article 16 of the aforementioned rule establishes that the derivation of water from its surface or underground deposit or course, with a view to urban, industrial and agricultural supply, among others, is subject to registration and the granting of the right of use by the Management Agency. Aside from that, the sole paragraph of this provision mentions that the grant does not imply partial alienation of the waters, whose nature is inalienable, but the right of use.

In order to understand the system adopted by the state legislator, it is necessary to establish the concept of grant. The National Water Resources Council, in article 3, II, of CNRH Resolution 65/2006, asserts that

[...] the granting of the right to use water resources is defined as the administrative act whereby the competent granting authority grants the applicant the right to use water resources, for a specified period, under the

terms and conditions expressed in the respective act, considering the specific legislation in force.

It is through the granting that the state agency of the water management system allows the user to make temporary use of underground water resources, provided that the technical specifications of the drilling and the environmental standards related to the species are obeyed, under penalty of revocation or suspension of the act authoritative. In fact, if the grantee fails to comply with the initial conditions that allowed the exploitation of underground water resources, it will be up to the management body to suspend or even revoke the grant, since, as an administrative authorization, it does not make up the beneficiary's legal assets.

In this context, Law No. 6,308 / 96 determined that the Executive Water Management Agency of the State of Paraíba (AESA) has the responsibility to administer the system and issue the related grants of the right to use the water. According to Article 15,

Article 15. Within the competence of the State, any intervention in watercourses or aquifers that imply the use of water resources, the execution of works or services that alter the regime, the quantity or the quality thereof, depends on the authorization of the Agency Manager, of the Water Resources Planning and Management System of the State of Paraíba.

§1. The Executive Water Management Agency of the State of Paraíba - AESA will charge an administrative fee to cover the costs of procedural analysis and technical inspection, for the purposes of granting the right to use water resources and the water works license, whose criteria and values will be established by Executive Decree.

§2. The execution of any water supply work or service, in the waters of the State of Paraíba, subject to a change in the regime, quantity or quality of water resources, will depend on a prior license from the Executive Water Management Agency of the State of Paraíba - AESA.

The State of Paraíba issued two decrees to regulate the aforementioned law, that is to say, Decree nº 19.258 and Decree nº 19.260, both of October 31, 1997. The first regulatory act establishes the technical control of the water supply works and services, while the second disciplines the granting of the right to use water resources.

All this myriad normative composed of constitutional provisions (article 23, VI and XI of the Federal Constitution), federal laws (article 5 of Law nº 6.938 / 81 and article 3, III, of Law nº 9.433 / 97), state law (article 3, IV, of Law 6,308 / 96), regulatory decrees (Decrees 19,258 / 97 and 19,260 / 97) advocate the integration of federal, state and municipal bodies in the protection of the environment, inspection of environmental standards and combating forms of pollution.

It turns out that this interconnected network of institutions, formed by water management or environmental protection bodies, did not successfully implement a coordinated action to monitor and control groundwater abstraction.

It is enough to consider that, in the reality of Paraíba, more precisely in the Municipality of Pombal, each state agency has different information on the number of abstractions of underground water resources. This dysfunction in the state system is already a singular demonstration that something needs to be done to reconnect “the ends” of the network.

In addition, data from state agencies do not match the information provided by the Paraíba Regional Engineering and Agronomy Council (CREA / PB) on the issue of Technical Responsibility Notes (ART's) related to well drilling.

Furthermore, the National Groundwater Information System (SIAGAS, 2019) registers 19,363 wells registered in Paraíba, while AESA notes the existence of 3,676 wells registered in the State (AESA, 2019).

In view of this observation, it is necessary that the environmental agencies (state and municipal) act to compel the compliance with the legal norms of protection to nature, adding efforts to the bodies that make up the system of management of underground water resources.

Reflecting a contemporary constitutionalist movement, the cataloging of fundamental rights in the Western Constitutions presupposes the notion that constitutional norms are not only used to proclaim political guidelines or merely symbolic value programs, disconnected from people's daily lives.

In fact, the people, the main recipient of the Constitution, need to feel and assess the effective implementation of constitutional rules, especially those that enunciate fundamental rights, such as an ecologically balanced environment.

The post-war scenario gave rise to a plethora of sensitivities that gave new meaning to constitutional law, placing the dignity of the human person as an elementary postulate, able to reverberate the reinterpretation of the legal system.

Neoconstitutionalism, as this tendency for restructuring the Democratic Rule of Law became known, renewed traditional hermeneutic methods, conferred normative fabric on principles, reconstructed the infraconstitutional right from constitutional values, advocated the implementation of constitutional norms, enabled the implication of rights fundamental in the private relations and consolidated the idea of supremacy of the Constitution, among countless other innovations in the dogmatism of old.

The constitutionalization of Environmental Law took advantage of this legal phenomenon and represented, in summary, the crystallization of the environmental normative basis in the Constitution. Thus, the constitutional legislator, in several countries, started to include in the Basic Law rules on the protection of the environment, giving rise to what was agreed to be called green constitutions.

In Brazil, the Constitutional Environmental Law was expressed in article 225 of the Federal

Constitution, according to which “everyone has the right to an ecologically balanced environment, a common use of the people, and essential to a healthy quality of life, imposing itself on the Public Power and the collectivity the duty to defend and preserve it for present and future generations”. According to AMADO (2018),

The environmental good is autonomous, immaterial and of a diffuse nature, transcending the traditional classification of goods in public (of legal entities under public law) and private, since the entire community is the holder of this right (good for the common use of the people).

(...)

It is not easy to define the meaning and scope of the expression ecologically balanced environment, the exegesis of which will vary in time and space, and it is also a theme that is part of the extra-legal environmental sciences.

It is customary to say that the right to environmental balance has a diffuse nature, since it is held by all people without distinction. The transindividual character of this fundamental right is prone to multifunctionality, as it allows the collective and the public authorities to be obliged to provide services (do, not do and give) and defensive obligations, aimed at the collective duty of protecting nature.

It should be noted that the intergenerational perspective of environmental law, extracted from the constitutional text itself, advocating the preservation of the environment for present and future generations, brings up an immaterial responsibility of society to prevent environmental damage and to rationalize the use of natural resources finite elements, such as water, preventing the enjoyment of environmental goods from being subtracted from the next generations.

Therefore, it is necessary that the legal system be endowed with guarantees and instruments that enforce the protection of nature. Thus, once the environment is threatened or affected, it is essential that the state apparatus, through specific actors, act to, if necessary, remove the illegal act, inhibit its occurrence or repair the environmental damage caused.

The Federal Constitution of 1988 stipulates, in Article 129, II and III, that the Public Ministry has the institutional function of ensuring the effective respect of the Public Powers and services of public relevance to the rights enshrined in the Constitution, such as the right to the environment ecologically balanced, as well as promoting civil inquiry and public civil action, for the protection of the environment.

However, the Public Ministry was not always seen with the democratizing eyes of the 1988 constituent legislator. As an example, in the 1891 Constitution, the Public Ministry was understood as an organ linked to the Judiciary and had markedly criminal functions, aimed at controlling violations of criminal law.

For its part, the 1934 Constitution linked the ministerial body to the Executive Branch, giving it a cooperative role in governmental measures. The 1937 Constitution did not dispense with specific discipline to

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the body, a reality circumvented by the 1946 Constitution, which covered it with autonomy, separating it from the constituted powers (Executive, Legislative and Judiciary).

The 1967 Constitution and Constitutional Amendment 01/1969, edited in an exception period, shifted the Public Ministry between the Executive and Judiciary Powers, emptying the members' duties.

It is not for any other reason that the re-founding of the Brazilian Public Ministry is propagated after the Federal Constitution of 1988. Parquet, a reference to the agency's performance in the French Courts, with the advent of the French Revolution of 1789, left aside the simple task of accusing suspected of crimes, and began to be seen, understood and promoted to a body that protects the legal order, diffuse and collective interests, in addition to the private legitimacy of accusing criminals, through public criminal action.

It is true that, even before the Federal Constitution of 1988, some legal diplomas already provided for the legitimacy of the Public Ministry in the defense of diffuse interests; this is the case of Law No. 7,347 / 1985, which regulated the institutes of public civil inquiry and public civil action. However, the Public Prosecutor's Office lacked broad constitutional support, which would dissociate it from the other Constituted Powers and give a social guise to the duties of its members.

It should be noted that, since 1981, the national legal system already had a regulatory framework, focusing on the implementation of the National Environment Policy (Law No. 6.938 / 1981). However, there was a lack of a body that could supervise the fulfillment of the goals outlined in the Law, that could demand respect for the principles set out in the standard and, above all, that could instrumentalize, with the use of legal institutes, the protection of the environment. environment - the Public Ministry assumed this role by express constitutional provision (article 129, III, of the 1988 Federal Constitution).

According to CUNHA JUNIOR (2011), when dealing with the Public Ministry,

[...] what really matters is to understand the importance of the organ for society and for the State, since, with the promulgation of the 1988 Constitution, parquet has redoubled its social relevance, especially with regard to homogeneous diffuse, collective and individual interests, in addition to ownership of the criminal action.

The National Organic Law of the Public Prosecutor's Office (Law 8,625 / 1993) accompanied the institution's renewal legislative movement, emphasizing that it is incumbent upon the Public Prosecutor, in addition to other functions (merely exemplary role), to promote civil investigation and public civil action, in the form of the law, for the protection, prevention and repair of damages caused to the **environment**, to the consumer, to goods and rights of artistic, aesthetic, historical, touristic and landscape value, and to other diffuse,

collective and individual interests that are unavailable and homogeneous (article 25, IV, "a").

It is noticed, therefore, that, although the protection of the environment by other bodies and institutions, such as political entities, entities of the indirect administration and associations, was applicable to the Public Prosecutor's Office, the competing and disjunctive mission of inspecting public bodies, protect the environment, prevent environmental degradation and circumvent pollution of ecosystems, using, among other instruments, civil inquiry and public civil action.

The Brazilian processualist tradition has, for many years, prioritized the study and analysis of institutes aimed at deflagrating individual processes. The 1973 Civil Procedure Code was edited with a strong individualistic inspiration, which ended up inciting a crisis of effectiveness in demands that promote the defense of collective rights.

Once there was no codification of the collective process, questions related to transindividual interests started to be resolved with the dialogue of several legal instruments (dialogue of sources). The People's Action Law (Law No. 4,717 / 1965), the Law of the National Environmental Policy Act (Law No. 6.938 / 1981), the Law of Public Civil Action (Law No. 7.347 / 1985) and the Consumer Protection Code (Law 8,078 / 1990), among others, established a genuine collective procedural microsystem, a circumstance that allowed specific procedural protection to collective.

It would not be necessary, from now on, to break up the institutes of the previous Civil Procedure Code (1973) to give rationality to demands that overcome the conflict of individual interests. The existing codification would be used as a supplementary diploma, integrating the microsystem in any regulatory gaps. On the subject, GIDI (1995) argued that

[...] the collective procedural part of the CDC remains, from the entry into force of the Code, the collective civil procedural order of a general nature, and must be applied to all collective actions in defense of homogeneous diffuse, collective and individual interests. It would be, so to speak, a Code of Collective Civil Procedure, as a general procedural order.

The understanding of the collective microsystem was also affirmed by MAZZEI (2006), for whom

[...] the conception of the collective legal microsystem must be broad, so that it is composed not only of the CDC and the LACP, but of all legislative bodies inherent in collective law, which is why the diploma that makes up the microsystem is able to nurture the regulatory deficiency of the other norms, because, united, they form a very special system.

The Consumer Protection Code, in this fork, under the pretext of disciplining consumer relations, brought up legal and procedural rules related to collective

rights *lato sensu*. The CDC and the Public Civil Action Law started to form the hard core of the collective process, which encompasses and governs, among other transindividual interests, the protection of the environment and the rational use of water resources.

The existence of the collective guardianship microsystem brings the idea of a specific legal regime to take care of the procedural instruments used in the transmission of collective interests *lato sensu*. Thus, in cases involving environmental damage, such as irregular groundwater exploitation, it is possible to incur a legal provision provided for in the Consumer Protection Code, without this normative articulation being seen with confused eyes.

The concepts of diffuse interests, collective *stricto sensu* and homogeneous individual, despite being enrolled in the CDC, serve all legal disciplines, including Environmental Law. It should be noted, on the subject, that the Brazilian Courts, based on the peaceful positioning of the Superior Court of Justice, have applied the systematic concept of collective redress, allowing, for example, that extinct public civil actions with merit resolution be submitted to remittance necessary, legal institute whose normative provision is contained in the Law of Popular Action, and not in the Law of Public Civil Action (REsp 1,108,542-SC, Rel. Min. Castro Meira, judged on 5/19/2009).

The new Civil Procedure Code (Law No. 13,105, of March 16, 2015), in this respect, brought provisions that brought it closer to the Collective Guardianship Microsystem, reorganizing the procedural tradition.

The legislator recognized the need to forge a fluid and plastic civil process, compatible with the diversity of tutelages that are daily at stake. The main objective of this vision is to enable the process to host, in a timely, appropriate and effective manner, the rights violated or threatened, with the flexibility and openness necessary to accommodate the judicial measures.

In this sense, the Collective Guardianship Microsystem was strengthened, above all, by the list of fundamental rules and principles related to the process provided for in the New Civil Procedure Code, with potential application in collective actions, among which public civil action.

Public civil action, a procedural instrument at the disposal of the Public Prosecutor's Office and other legitimate parties, is a type of collective action that conveys an inhibitory, protective or reparative claim to diffuse, collective and individual homogeneous rights.

At first glance, it could be understood that public civil action would not harbor individual claims, especially since it is a kind of collective action. However, when unavailable rights are at stake, even of an individual and inhomogeneous character, the Public Prosecutor's legitimacy to act and protect the unavailable interest stands out, thus making use of public civil action.

It is not for any other reason that not all collective action is public civil action, just as not all public civil action is collective action.

The framing of public civil action as a collective action is important for the incidence of the norms that integrate the microsystem of collective

protection. Roughly speaking, public civil action is the main procedural weapon used by the Public Ministry to protect diffuse rights, such as the ecologically balanced environment and the rational use of natural resources.

This action is regulated by Law No. 7,347 / 1985, but it has been part of the Brazilian legal system since 1981, with the edition of the National Environmental Policy (Law No. 6,938 / 1981). Therefore, by the normative history, it is already possible to perceive the approach and propensity of the public civil action to lead the protection of the environment. Initially, ACP was designed to protect environmental conditions and combat the indiscriminate use of natural resources.

It is true that Law No. 7,347 / 1985 extended the object of the ACP, allowing, for example, the use of this procedural tool to repair damages caused to any other diffuse or collective interest (article 1, IV, of Law No. 7,347 / 1985). However, in terms of the irrational and clandestine exploitation of underground natural resources, there is nothing more appropriate than using the ACP to inhibit any possible violation of the environment. It is so true that article 1 of the aforementioned normative diploma chose the environment as the first diffuse interest to be protected by the ACP (article 1, I, of Law No. 7,347 / 1985).

Therefore, the construction of this procedural institute is umbilically linked to the protection of the environment. If the environmental police power is not regularly exercised by the Public Entities (Union, States and Municipalities), which will result in deficient protection of nature, it is essential to use the ACP to compel the Public Power, through environmental agencies, to fulfill its role as guarantor of the environment, not least because the Federal Constitution itself lends public character to environmental protection.

As it involves a very diffuse, indispensable to healthy human life (ecologically balanced environment), the Public Power imposes an indispensable duty to exercise the power of the environmental police, controlling and inspecting the exploitation of submerged water resources. The fragility of the inspection policy, with harmful effects to safeguarding the environment, enables the instrumentalization of the ACP by the Public Ministry or another legitimate active.

Article 5, I, of Law No. 7,347 / 1985 establishes that the Public Ministry has the legitimacy to bring the main action and the precautionary action, even though it did not subtract this procedural weapon from other institutions. It is symptomatic that the legislator positions the Public Prosecutor's Office as the first legitimate court for the ACP. Despite being a procedural subsidy made available to others legitimate, the ACP seems to have been tailored for the ministerial task. For this reason, the legitimacy and interest in acting by the Public Ministry is presumed in filing public civil actions aimed at protecting environmental resources.

This means that the Ministerial Body does not need to demonstrate, for the filing of the action, that the interest to be protected, in this case, the environment, is inserted in the Institution's range of duties, because, as seen, the legitimacy and the interest to act in these cases have a constitutional and infraconstitutional seat and are gauged beforehand.

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The guiding criterion for the indication of the competent court to process and judge public civil actions rests at the place where the damage occurred. In preventive actions, which collimate and inhibit the occurrence of damage, the action must be brought before the Court of the place where the environmental damage could potentially occur.

Once the local environmental mismatch (Pombal Municipality) has been identified, caused, among other factors, by the fragility of the inspection policy related to the exploitation of water resources, it is up to the local Judiciary (Comarca de Pombal) to prosecute and judge a possible public civil action that aims to compel environmental bodies to exercise the power of environmental police, once the extrajudicial composition of the interests at stake is fruitless.

In fact, filing a public civil action should be understood as the last resolution measure for environmental issues. As it involves imprescriptible pretensions, the demand to inhibit environmental damage or repair it is not subject to the statute of limitations, as it is perpetual, in view of the unavailability of the interests involved.

It should be noted that the right to an ecologically balanced environment, a diffuse constitutional right that supports present and future generations, cannot be subject to claims that are lost over time. The reparatory objective, in this context, gives rise to an immaterial claim. According to MILARÉ (2005),

In the first case, that is, a public civil action that transmits a claim for reparation of collective environmental damage, our order does not count on specific discipline in prescriptive matters. Everything leads, however, to the conclusion that it is part of the list of imprescriptible actions.

Given the logic of the imprescriptibility of environmental claims, it is curial, even before filing public civil action, to try to compose the conflicting interests, the search for an effective ecological way out and that does not extend over the natural time of the legal proceedings.

That said, before exposing an environmental problem, before filing a public civil action that provides for the prevention of natural damage, the restoration of nature and the indemnity for any damage caused, it is appropriate for the Public Ministry to gather as much evidence about the indicated issue and, as a facilitator, propose an extrajudicial reconciliation of the collective conflict.

This double function, that is, collecting evidence of a collective problem (such as environmental illicit) and harmonizing a collective conflict out of court, must be carried out within the scope of the public civil inquiry.

The public civil inquiry is an administrative procedure of an investigative nature, serving exclusively the work of the Public Prosecutor who institutes and presides over it, with the main objective of uncovering elements of conviction necessary for the filing of the

public civil action or the formulation of an adjustment term of conduct to legal requirements.

Provided for in Law 7,347 / 1985, the public civil inquiry (ICP) has an extrajudicial life. This means that the ICP is a procedure that helps the Public Prosecution Service to decide whether to take a legal action (ACP), to propose an extrajudicial adjustment or to close the investigation, if no evidence of an alleged illegality is found.

It is extracted from article 8, paragraph 1, of Law 7,347 / 1985 the notion that the civil investigation, under the presidency of the Public Ministry, for assuming an instrumental function, is an optional procedure, that is, it is not a necessary condition for the filing a possible public civil action. However, if you plan to present an extrajudicial solution to the problem under investigation, the Public Prosecutor's Office must instrumentalize a conduct adjustment term in the midst of a civil investigation. According to NEVES (2005),

Regardless of the civil investigation, public civil action may be filed; it is not essential. If collective action was not possible without the civil investigation, as it can only be initiated by the Public Prosecutor's Office, the co-legitimized would always depend on the ministerial body to be able to file with the competent public civil action, which would evidently be a unjustified nonsense.

It is, therefore, in the course of the civil investigation, that the Public Ministry, seeing a collective environmental problem, such as the irregular exploitation of underground water resources and the fragility of the environmental police power, can present an extrajudicial solution to the case, proposing the adjustment of irregular conduct to the requirements provided for by law.

The term of adjustment of conduct to legal requirements is, in fact, an extrajudicial agreement formalized before the public bodies legitimized to the entry of Public Civil Action (Public Ministry, Public Companies, among others, with the exception of Associations, as they are not classified as bodies public), in which the person, whether natural or legal, under public or private law, agrees on a catalog of institutional commitments, with the aim of, in a tight synthesis, avoiding damage, stopping an illegal act and / or repairing damage caused.

Thus, when a conduct (action or omission) that violates lato sensu collective rights occurs, such as the right to an ecologically balanced environment, or the threat of such infringement, it is possible to conclude an agreement with the responsible party, containing the prevention or removal of the offense, environmental compensation and / or damage.

It should be noted that the TAC is nothing more than a qualified legal business, the instrument of which is effective as an extrajudicial enforcement order. Thus, if the person responsible for the violating situation fails to comply with the terms of the agreement, the policyholder can execute the formed title, including the application of the penal clause that may be provided for in its scope.

For the work, it is important to highlight that the conduct adjustment, as tacked, can be agreed and subscribed by any person, physical or legal, of public or private law, whose conduct, whether commissive or omissive, is in disagreement with the environmental law. For this reason, those entitled to public civil action can take the commitment of adapting to the environmental law of public entities, in the event of omission or negligence in environmental inspection, when they function as indirect polluters, as well as private individuals (individuals or legal entities) that, by way of illustration, clandestinely exploit underground water resources (direct polluters).

The topic addressed gained priority, especially after the New Code of Civil Procedure, which, among other guidelines, encouraged the resolution of conflicts based on self-composing methods (article 3, paragraph 3, of the CPC).

The formalization of the TAC has numerous benefits, as it is a quick way out of environmental protection and a legal alternative presented to the agent that avoids a lawsuit. Article 5, paragraph 6, of Law No. 7,347 / 1985 provides that "legitimate public bodies may make a commitment from interested parties to adjust their conduct to legal requirements, by means of agreements, which will be effective as an extrajudicial enforcement order".

This legal provision, within the scope of the Public Ministry, was regulated by the National Council of the Public Ministry, with the edition of CNMP Resolution 179, of July 26, 2017. Article 1, of the aforementioned resolution, a discipline that:

Art. 1. The commitment to adjust conduct is an instrument to guarantee the diffuse and collective rights and interests, homogeneous individuals and other rights whose defense is entrusted to the Public Ministry, with the nature of a legal business whose purpose is to adapt the conduct to legal and constitutional requirements, with the effectiveness of an extrajudicial enforcement order as of the.

The content of the conduct adjustment term is provided for in article 3 of the indicated resolution. Highlights that device:

Art. 3º. The commitment to adjust the conduct will be taken at any stage of the investigation, in the civil investigation record or related procedure, or in the course of the legal action, and must contain certain, liquid and enforceable obligations, except for peculiarities of the specific case, and be signed by the body of the Public Ministry and by the contractor.

Therefore, in view of the verification of the environmental problem, characterized by the irregular exploitation of groundwater in the Municipality of Pombal and the deficiency of the state and municipal bodies in the exercise of the power of the environmental police, it is the responsibility of the Public Ministry, primarily, to strive for amicable resolution of the issue, establishing an action plan that corrects environmental

infractions, inhibits new illegality and considers the social and economic situation of the affected population and agro-industries.

One cannot lose sight of the fact that TAC is a tool to guarantee transindividual rights and interests. The adoption of transparent clauses, with certain, liquid and enforceable obligations, promotes a legal structure that protects the continuity of irregular situations and the prevention of future losses.

In the case studied, the plaintiff, in particular the Representative of the Public Prosecutor, is allowed, under the judgment of convenience and opportunity, to call to the dialogue table the environmental bodies of the federal spheres (State and Municipality) responsible for the supervisory function and those responsible for the irregular exploitation of water resources, with a view to consensually adapting the conducts to the legal system.

It can be seen that the TAC has the ability to safeguard the environment, without neglecting the extreme weather conditions to which submerged water users are subject. The use of artesian wells, in many cases, as seen, is not an option, but, rather, the only viable way to maintain productive activities and the livelihood of the rural population. For this reason, in addition to the punitive eye, the Public Ministry must seek the friendly correction of irregular conduct, the prevention of new environmental slips and the adoption of a continuous and perennial policy of exercising environmental police power.

MATERIALS AND METHODS

The work analyzed the normative framework that involves the mission of the Public Ministry in protecting the environment and identified the factors that contributed and contribute to the clandestine exploitation of underground water resources in the Municipality of Pombal / PB. For this reason, using explanatory research and documentary and bibliographic methods, the work listed the environmental standards and legal procedures necessary for the correct collection of groundwater.

The study of the documents made available by AESA, SUDEMA, CREA, Municipality of Pombal ends in the documentary method, while the analysis of the legal institutes that involve the subject, such as public civil inquiry, public civil action, conduct adjustment term, police power and ecologically balanced environment, was carried out using the bibliographic method.

When gathering the information, the work privileged the study of the situation in the Municipality of Pombal and, this time, it was adapted to the Case Study. Located in the Brazilian semiarid region, more precisely in the interior of Paraíba and populated on the banks of the Piancó River, the Municipality of Pombal has an estimated population of 32,443 inhabitants and has an approximate area of 889 km² (IBGE, 2010). The agricultural activity has significant results in the municipality and supports the implementation of numerous agro-industrial enterprises.

To obtain the results and answers about the problem presented, the work made a diagnosis of the current situation regarding the clandestine exploitation of underground water resources in the Municipality of Pombal, comparing the existing information in the official

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databases.

The production of the necessary data for the work was based on the Access to Information Law (Law No. 12,527 / 2011). The ART's (Technical Responsibility Annotations) information issued by CREA / PB for well drilling works, the environmental licenses granted by the state Environmental Agency (SUDEMA) for such activity, were collected in relation to the Municipality of Pombal based on the power of the environmental police (Municipality of Pombal) and the rights to use water resources granted by the State Governing Body (AESA).

By comparing the information obtained, it was possible to identify the lack of integration of the organs of the system and the need for articulation of the Public Ministry to make the control of environmental resources effective.

Therefore, the work used qualitative research to interpret the phenomenon of irregular groundwater exploitation in the Municipality of Pombal, which made possible the presentation of a way out of the problem, based on a supervisory logic to be implemented by the Ministry Public that considers the social and economic situation of the affected population and agro-industries.

Based on the diagnosis of the Municipality of Pombal, the work presented a proposal for action to assist the decision making of the Public Ministry on the identified problem, namely, the weakness of the control bodies in the environmental protection of water resources, suggesting the modification of the current situation through an institutional format that can be replicated in other municipalities with a similar problem.

The work thus provided, as a final product, a model of Conduct Adjustment Term to be made available to the Public Ministry, with routine action and proposed measures to be adopted by the Member of the Institution, according to the diagnosis obtained from the bodies charged with protecting the environment and manage water resources.

RESULTS AND DISCUSSION

The use of groundwater is essential for the local agribusiness, especially the family agribusiness, which does not have sophisticated and costly alternatives to deal with the drought problem.

The productive sector demands water security, especially after the recent droughts which, by decreasing the volume of dams responsible for supplying the local population and for the perpetuation of the Piancó River (Curema-Mãe D'Água water system), prevented the irrigation of crops.

The Municipality of Pombal has 60.8% of adequate sanitary sewage (IBGE, 2010), is inserted in the Hydrographic Basin of the Piranhas-Açu River, in the Eastern Northeast Atlantic Hydrographic Region, crossed by the Piancó River, and has 1,334 agricultural establishments, of which 866 do not receive technical assistance, 583 use pesticides, 1,139 have not obtained financing / loans and, of the 2,963 people employed in the above establishments, 2,543 are related to the producer (IBGE, Censo Agropecuário 2017 - Preliminary Results).

The data collected indicate that the agro-industrial activity in the municipality of Pombal is marked by the family economy and does not have the necessary technical support. The warning is due to the considerable percentage of producers that use pesticides, which, together with the irregular drilling of artesian wells, represents a dangerous window of contamination of aquifers and compromise of the subsoil. The low incidence of adequate sanitary sewage has the ability to pollute and impair the potability of underground water resources, bringing in tow direct damage to agricultural production.

The scarcity of surface water represents a serious environmental problem, with social and economic repercussions in the indicated region, since users started to resort to submerged sources, without the Public Power being properly prepared to command this transition, helping the population and the productive sector in compliance with technical standards and environmental conditions related to the capture of water resources.

In 2016, at the height of the drought / drought, the Water Management Executive Agency had 14 agents to regulate and supervise the collection of groundwater throughout the State of Paraíba. At the time, of the 3,676 wells registered, only 428 had the grant issued regularly (AESA, 2016).

It is clear that the National Water Resources Policy, instituted by Law 9.433 / 1997, created the National Water Resources Management System, establishing that water management must be decentralized and must count on the participation of the public power, users and the community.

In addition, the National Water Resources Policy stipulates that there must be integration of water resources management with environmental management, at the most varied levels (federal, state and municipal). It happens that the state agency that manages the waters (AESA) does not dialogue with the environmental agency (SUDEMA), nor do they communicate with municipal bodies.

The data provided by SUDEMA indicate that no environmental license was granted for the drilling of wells in the municipality of Pombal / PB, although there are numerous abstractions of underground water resources in the region, some of them with the due concession issued by the management body.

To be precise, there are 167 wells registered with AESA, many with expired licenses and without updated data on water flow and potability. Of these wells, 59 are registered as human consumption, 84 for irrigation, 06 related to industry, 04 related to commercial points, 12 related to aquaculture and 02 as community supply.

The data presented demonstrate that the use of these water resources serves for the survival and livelihood of the population. More than half of the wells drilled (106) are for family productive activity (agriculture, aquaculture, industry and agroindustry), a fact that indicates the need to regularize the activity.

It should be noted that the unfortunate population, which uses community supplies, makes little use of submerged sources (02 records of community

wells), but is constantly exposed to the negative effects of irregular activity, such as environmental pollution, disease proliferation, salinization of water potential and aquifer depletion.

It is not possible to rule out, yet, the existence of an unmeasured black figure, without the effective inspection action of the control bodies. In fact, there are 167 wells registered with AESA, but there are still a multitude of wells that explore underground water in hiding, without any registration with public agencies.

Clandestine activity is the one that deserves the most care, as drilling is carried out entirely outside the legal framework, often with inappropriate materials and without the proper distance from one well to another, which can make it impossible to capture the well that has been drilled, in compliance with technical specifications and legal standards.

Just consider, in this context, that CREA has only received, in the last 3 years, 4 ART's on artesian wells in the Pombal region, all in the urban perimeter, three of which are for private projects (gas station, medical clinic and car wash) and one for housing unit. ART is a document issued and registered with the professional council, when the engineer prepares a technical project, certifying the person responsible for providing the service.

Thus provides for Resolution CONFEA n° 1025/2009:

Art. 3. Any written or verbal contract for the execution of works or provision of services related to the professions covered by the Confea / Crea System is subject to the registration of ART at Crea in whose constituency the respective activity is exercised.

The existence of so many perforations and the incurrance of the respective notes of technical responsibility indicate that, due to the clandestine nature, the engineers did not submit the projects to the professional council, or, what seems more credible, the wells were executed without the necessary engineering professional.

The lack of technical advice represents the greatest danger to the environment. Drilling wells underground, at a reduced cost, does not denote any commitment to sustainability.

In turn, the isolated performance of the *actors* that make up the system causes damage in the articulated fight against environmental irregularities. In addition to frustrating the effective control of the exploitation of water resources, the lack of gear between public agencies brings to light the ineffectiveness of the supervisory power and hides or masks the size of the environmental problem.

Basically, the attention of public agencies has still been dedicated to the management of surface water. According to Zoby and Matos (2002),

Despite the significant advance that represented the creation of the law and the growing vision of the importance of water resources for society, the focus on water management, from a legal and institutional point of view, has traditionally turned to

surface waters. Groundwater still remains less visible, of course, an intrinsic condition of it. In Brazil, there is still a gap in the way of thinking about water management, the great challenge is to develop an integrated vision, in which to effectively manage water resources, its different forms of occurrence are not dissociated. Contemplating only part of the water issue, in addition to simplifying the problem, will represent a limitation in the effective solution of the problems that society requires.

In turn, shielded by the legal obligation of the Member State to grant the right to use water resources, municipalities do not usually exercise the power of environmental police at the local level and, therefore, fail to implement supervisory initiatives to protect nature.

In the database of the Municipality of Pombal / PB, there are no records of inspection measures by the members of the Secretariat of the Environment in relation to people and enterprises that use submerged sources, either in relation to the correct execution of the work, or with regard to the quality of the natural resource.

Consequently, there is not even a record of administrative assessment in the municipal archives, based on police power, for the violation of environmental rules related to the undue exploitation of underground water resources.

The naked scenario is that there is no communication from public agencies about the previous steps that must be taken to collect groundwater, public data, by itself, denote compartmentalization of activities and there is relative disregard for the exercise of police power environmental.

The Public Prosecutor's Office can catalyze an interconnected inspection network between public agencies, with the purpose of discouraging new clandestine drilling and promoting the regularity of existing abstractions.

The objective cannot be persecutory. The administrative solution for environmental balance is the adoption of an effective system of control of environmental resources, respecting the legal system, the environment and the special condition of emergence of agro-industries located in regions affected by drought.

CONCLUSION

The work showed that there is a fiscal inertia in the compliance with the environmental norms related to the capture of underground water resources. The Member States, to whom the Federal Constitution conferred the primary dominance of the waters, have a management system that does not interact with environmental agencies, whether at the state or municipal level. Therefore, the preventive role of protecting natural resources and the adoption of minimum inspection measures have not been performed.

The deficiency in the protection of legal norms by the bodies of the Water Resources Management System has contributed and even stimulated the clandestine abstraction and exploration of groundwater.

It has been demonstrated that it is necessary to consolidate an inflection point in the effective and healthy

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control of environmental resources, enabling the fight against water waste, groundwater pollution, subsoil contamination, and the use of water unfit for consumption and for the population's illness.

In this tuning fork, the Public Ministry, fulfilling the constitutional mission, can counter the omission of the other institutions in the inspection of infractions to the environment. It was seen that the Ministerial Body, in the context of a public civil inquiry, has the prerogative to request information from public agencies and private entities to collect indicators, send recommendations to interested parties, alerting them to the need to obey the legal order, under penalty banning polluting activity, and adjusting the conduct of those who have effectively breached the law, setting conditions for the remedying of possible environmental damage.

The work, in this sense, indicates a solution to the problem, indicates a possibility of a conduct adjustment term that catalyzes a redefinition of inspection among public agencies, discourages new clandestine drilling, promotes the regularity of already existing catches, makes viable or enjoyable equitable and rational use of water and control or use of this finite good, without polluting the environment or compromising the potability of this essential resource for life.

The final product of the work, a model of conduct adjustment term to be sent to the Pombal Public Prosecutor, responsible for the protection of the environment, establishes obligations to be performed by state and municipal bodies, taking into account local specificities, the pedagogical character of the measure, the environmental education policy and the cessation without trauma of irregular situations.

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