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# Human Right to Environment in Brazil: Democratic Access to Quality of Life and Dignity to Reach All?

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# Human Right to Environment in Brazil: Democratic Access to Quality of Life and Dignity to Reach All?

Francisco Cleiton da Silva Paiva

*Summary-* As an agent responsible for promoting sustainable development, the state has a role to contribute positively to an ecologically balanced environment, as this can act and interfere directly in the development and implementation of socio-environmental policies. The environmental balance is one of the components of the desired sustainable development, it being included also a viable economy and a just society. The environment, in turn, must be understood as a fundamental part of the scope and enforcement of human rights, as the right to life, ecologically balanced environment and own sustainable development are key to the quality of life and the scope of the dignity of the human person. This work aims to show that the ecologically balanced environment and the quality of life of the social and environmental point of view is a human right and an obligation of the State, which should promote and provide it to the whole society. Human Rights correspond to the fundamental rights of every human person, covering both individual aspects as well as its sense of community. Rights are indispensable for every human life which are based on historical principles as liberty, equality and fraternity, essential and indispensable to a decent life. Through research, it was found that the environmental protection is a decisive factor for the consolidation of the human right to sustainable development, as individuals need nature to fully develop in their living conditions.

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## I. Introduction

Man's actions toward the environment have caused serious changes on the planet and causing various problems whose effects reach and are felt in all parts of the world. For this reason, discussions about environmental issues have gained strength at the same time in which it operates as an agenda of government actions when the definition of public policies. Some factors such as the intensification of industrialization, population explosion, increasing production, unbridled consumption, urbanization and modernization of farming techniques also brought with it consequences such as degradation of natural resources, pollution of water, soil and air, which resulted in environmental disasters observed until days (BIRTH; Lemos; Mello, 2008). Because of these issues, we have tried to establish a new form of development, Not coincidentally, addressing environmental issues, Boff (2012) notes that, these days, the theme of sustainability and the environment is one of the subjects most talked around the world, showing the importance that the issue has reached to society, businesses and governments. This is happening not only due to an outcrop of a perception of limited natural resources (which is already evident and is consolidating more each day), but also the understanding that an environment is a good that must be available to all people in a similar way, even in a timeless perspective.

In Brazil, the Government is in charge of shared responsibility to defend and preserve the environment, thus ensuring sustainable development at the national level, as defined in the 1988 Federal Constitution, in Chapter VI, which deals with the environment, as well as in other constitutional text devices.

Living in a preserved environment, quality of life and conditions that benefit people's health is a human right. However, given the current environmental context, how the state could act to benefit and promote a balanced environment and able to meet the current and future generation needs, thus ensuring that the right people?

It is important to understand the size of the environment related to human rights, given that, usually, there is a misperception that human rights are more linked to other aspects such as rights of prisoners, among other civil, understanding this that does not translate your concept. Therefore become important other approaches involving human rights in its various dimensions. Moreover, there is no way to treat human life without considering the environmental variable, the basis of its own existence.

As for the methodological aspect, this study corresponds to a literature review of work being categorized as to their nature, and qualitative research; the aims, defined as descriptive; and, as to the object, considered a literature search.

## II. Human Rights

Comparato (2001) conceptualizes human rights as fundamental rights of the individual, covering not only the individual aspects as well as its sense of community, called fraternity rights. For Ramos (2014, p. 23), human rights "consist of a set of rights considered essential for

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human life, based on freedom, equality and dignity. Human rights are the basic rights and essential to the good life. "

Human rights are rights attached to the condition of the human person. Ramos (2015, p. 38) understands that without these rights humans "cannot exist or is not able to develop and to participate fully in life." Although there is a certain list of rights that human beings need to have to have a dignified life (since human needs vary according to the historical and cultural context), there are elements that, over time, have been incorporated into what it is considered essential for it to be developed fully. Historically, these rights are marked by change and constant renewal, from antiquity to the present day and can be considered a product of history provided in accordance Ramos (2015) and Comparato (2001).

According to Ferreira Filho (2011, p. 57), human rights are classified into first, second and third generation (or size), corresponding respectively to the rights to freedom, equality and fraternity, basically the same motto of the French Revolution of 1789, theory advocated by Karel Vasak in 1979.

In this line, Ramos (2014) explains that the rights of "first dimension" are the rights of freedom, which are the individual, civil and political. The "second dimension" are those related to equal rights, whether economic, social and cultural rights, for example.

As Ferreira Filho (2011), the rights classified as "third dimension" (or generation) are the community ownership rights (solidarity and fraternity), which are linked to the quality of life and solidarity between human beings, including the rights relating to peace, development, the common heritage of mankind and the environment.

There's another doctrinal current, defended by Bonavides (2009), which proposes the existence of two other dimensions, namely: a "fourth dimension" of human rights (which he defends match the information rights, pluralism and democracy) and also a fifth dimension group (which corresponds to the fundamental right to peace). Another chain, further, argues that there is also a "sixth dimension", which is the human right to safe drinking water, as explained Santos (2001).

A landmark for human rights occurred in 1948 with the proclamation of the "Universal Declaration of Human Rights" by the United Nations (UN), a huge achievement for humanity in relation to their individual and universal rights. Among all posts rights from the document, it brought in its Art. 3 that has the right to "life", considering that it included the conditions necessary for its maintenance. Similarly, it is understood that every human being has the right to quality of life, as established in the art. 25 of that document. The preservation of the environment is therefore fundamental assumption, without which even would not be possible life.

Unfortunately, the same way as other rights considered fundamental, it is known that this is a right yet achieved by few, although it is as important as the other (or even more), in need of protection with a range much bigger.

There is a disparity in access to a balanced environment. There is a discrepancy in the use of the environment as an instrument for the quality of life. Access to the environment for all cannot be seen also as something democratic, because it simply is not. Even there is a direct relationship between poverty / wealth and quality of life, as will be discussed later. The environment may even belong to everyone, but not everyone has access, either use it as a fundamental right to a quality life, and, why not say, with dignity.

In the light of our goal of study, it is interesting to note the Declaration of Human Rights of 1948 in it there is no mention on the environment. This shows that issues related to the environment at the time of its preparation, were not treated with due importance, or at least was not in evidence. What is the reason? The environment was not yet regarded as an asset to be preserved or a problem to be solved.

More than seventy years after the Declaration of Human Rights of 1948, which note is the environmental issue gaining prominence in discussions around the planet, as the human being has realized how much wear the natural environment directly affects their lives. The idea that natural resources are limited and increasingly declining lit the warning signal for people to begin to adopt a new attitude and a new mentality in relation to the environment, understanding that the destruction of nature is automatically the destruction of the human being.

## III. Environment and Sustainable Development

In recent centuries technological development of mankind has reached a level never reached in history. There were numerous scientific discoveries, which provided a huge production capacity by organizations, but at the same time, has caused wear on the unprecedented natural environment. The human being, through its unbridled pursuit of economic growth, made their discoveries and their technologies the means that may lead to its own demise.

The human being, of all existing animal species, is the one with the greatest capacity to adapt to the environment. Over time, man has modified the environment you live in, always in search of better living conditions. Unable to compete with other animals, because of their physical limitations, man learned to make tools as well as to overcome its limited capacity and offering the same the strength to deal with the



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difficulties of the hostile environment in which he lived. At first, the ability to intervene in nature did not result in much damage. This activity that man exercising in nature to provide better living conditions and meet their needs given the name of work (DIAS, 2011). Over time, the interference capability in the medium in which living been expanded,

For Barbieri (2011, p. 01) "environment is anything that involves or about living things." According to this author, the environment comes from the Latin word and the ambi prefix means "around something" or "both sides". In this sense, the word environment brings the idea of involving living beings and things, and everything that surrounds the earth with its natural and artificial elements, "Why the environment is understood the natural and the artificial, that is, the environment unique physical and biological, and what has changed, destroyed and built by humans "(BARBIERI, 2011, p. 01).

It is due to the inordinate use of available resources in the environment, from the production of goods and services that humans have caused the greatest wear in nature, for this production generates waste and harm the natural environment, resulting in a difficult situation reversal. These resources used in production are classified into renewable and non-renewable: renewables are air, water, solar energy, plants, animals, etc.; non-renewable are those which have a finite amount and at some point will run out (such as ores, coal, petroleum, etc.).

Produce without thinking, sell without measure and consume without resetting the nature, they became the basic equation for the unsustainability today and threaten the structure of the planet. This dynamic must be rethought in order to ensure the existence of future generations with concrete possibilities to remain and live harmoniously with the environment, while ensuring the development of this.

The design limitation of natural resources has given rise to the need of the search for balance between the use of the environment as a source of wealth and economic and social development. Sustainability emerges as a fundamental condition for the maintenance of life on Earth and its basic idea ensure "that our actions today do not limit the range of economic, social and environmental options available to future generations" (Elkington, 2012, p. 52).

Currently, the concept of sustainability is widespread and is related to the planet's ability to maintain natural balance, taking into account the economic and social needs present and future generations. Therefore, sustainability cannot be analyzed in isolation in one of its aspects. It basically involves three variables that are complementary to each other, composing a social, environmental and economic system.

Sachs (2009) notes that "sustainability" is often used to express "environmental sustainability", but that term has other dimensions. For him, the first approach refers to the "social sustainability", which considers the very purpose of development as it considers it easier to place a social breakdown before it happens an environmental catastrophe. From there, the message "environmental sustainability", which primarily depends on the social, to then rise to "economic sustainability", which relates to the other "as an economic disorder brings social disorder, which, in turn, clogs environmental sustainability "(Sachs, 2009, p. 71).

The concept itself Sustainability varies according to the literature, but having the same essence, as this concept: "ensuring that natural resources remain with the quality and quantity of original levels over time and allow future generations to meet the same conditions for their survival than the current ", defines Floriano (2007, p. 11) the meaning of sustainability. In the same spirit, Elkington (2012, p 38) brings in its concept: "Sustainability is the principle which ensures that our actions today do not limit the range of economic, social and environmental options available to future generations."

Keeping the environment in balance environment is a condition for the full development of all societies. A healthy and balanced society is one that understands that their welfare is reached when considering in their actions not only the impacts they may have on the present, but also the effects that these actions can generate in the future. This is the concept of "sustainable development", defined by the report "Our Common Future" (also known as the Brundtland Report of the World Commission on Environment and Development, the UN in 1987) as "the ability of companies to meet needs of the present without compromising the ability of future generations to meet their own needs "(WCED, 1999, p. 09).

However, this understanding had already been signed since 1972, from the United Nations Conference on the Human Environment, which resulted in the Stockholm Declaration and the United Nations Environment Program (UNEP). This statement was also a milestone for environmental law when considering the right to the environment as a fundamental right of the individual, equating it to rights already established in the field of human rights, such as freedom and equality (first and second dimension). The document contained in Principle 1 that "the human being has the fundamental right to freedom, equality and the enjoyment of adequate living conditions in a medium whose quality permits a life of dignity and well-being come,

That statement also argues that when there is a relationship in which man protects nature, both are benefited, highlighting in its preamble: "Man is at the same time work and the environment builder that surrounds it, which gives material support and it offers



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the opportunity to develop themselves intellectually, morally, socially and spiritually "(UN, 1972, sl). The same text also emphasizes that "the protection and improvement of the human environment is a key issue that affects the people well-being and economic development around the world, an urgent desire of the peoples of the world and duty of all governments" (UN, 1972, sl).

Days (2011) points out, however, that despite the Sustainable Development concept is widely used, there is an exact view of what it is. He explains that for some sustainable development is to achieve economic growth through the rational use of natural resources and more efficient and less polluting technologies; for others, sustainable development is, first and foremost, a social and political project to eradicate poverty, improve the quality of life of society and meet the basic needs of mankind.

Therefore, environmental protection emerges as a human right, whose responsibility belongs to everyone and global, including governments, organizations and society in general.

The full development of the human being depends on many factors, so that it can find the right condition for a life with dignity. The United Nations, to develop the concept of sustainable development brings with it a response attempt to existing environmental problems and risks that the planet runs due to this problem.

Although it seems easy to deal with the environmental issue it is not that simple. The own economic dynamics (directly linked to the use of natural resources) must be taken into account, since economic impact of actions bring therefore a social and environmental impact immediately. Ie economy, society and environment are in a direct, closely linked relationship. Issues related to the context emerge from it, for example, you can reduce wear in nature without affecting the economy? You can move the economy without affecting society? The fact is that it is impossible to move on these issues without impacting on human life, the living conditions of society and the well-being of individuals and cannot be considered any point without a holistic approach.

Therefore, "to be sustainable development should be economically viable, socially just and environmentally correct," as Boff (2012, p. 43), a concept also advocated by Elkington (2012), known as "Sustainability Tripod" (Triple bottom Line), which advocates exactly the balance between these three variables. Similarly, even the Stockholm Declaration (1972) also provides that: "Economic and social development is essential to ensure the man a living environment and favorable work [...]" (Principle # 8), also entailing the concept.

In Brazil, the Sustainability Tripod is a concept that can be applied both macro way, for a country or for the planet, for example, as well as micro way, as in a house, a school, or business, regardless of size (DIAS, 2011). Sachs (2009, p. 35), in turn, calls the three pillars of sustainable development as "Victory Triple", to simultaneously meet the criteria of "social relevance, ecological prudence and economic viability."

Sachs (2009) emphasizes that to be sustainable development, biodiversity conservation is presented as a necessary condition, although it also seeks to reconcile the social and environmental objectives at the same time without losing the order of concern for the needs of the present generation and future generations. The author also provides an explanation of the difference between conservation and environmental protection, which although with similar meanings, have specifically distinct meanings, however, necessary for the understanding of the environmental issue. As states, the idea of preserving consists of preventive action for the protection of ecosystems against any damage or form of degradation. Keep in turn, is to enjoy, in a controlled manner, the assets and resources that nature can offer, in order to allow its continued use. In the same vein, Nascimento, Lemos and Mello (2008, p. 71) explain that environmental conservation "adopts the criterion of inatacabilidade man of nature and the ecosystem", while conceptualize environmental conservation as "the efficient use of a resource all in order to obtain a good yield, thus ensuring its renewal or self-maintenance." So save means the use of natural resources within the limits able to maintain quality and balance of nature; preserve, on the other hand, corresponds to not use and do not allow human intervention passed on to the environment. 71) explain that environmental conservation "adopts the criterion of inatacabilidade man of nature and the ecosystem", while conceptualize environmental conservation as "the rational use of means whatsoever, in order to obtain a good income, thus ensuring the renewal or self-sustaining. " So save means the use of natural resources within the limits able to maintain quality and balance of nature; preserve, on the other hand, corresponds to not use and do not allow human intervention passed on to the environment. 71) explain that environmental conservation "adopts the criterion of inatacabilidade man of nature and the ecosystem", while conceptualize environmental conservation as "the rational use of means whatsoever, in order to obtain a good income, thus ensuring the renewal or self-sustaining. " So save means the use of natural resources within the limits able to maintain quality and balance of nature; preserve, on the other hand, corresponds to not use and do not allow human intervention passed on to the environment. Save means the use of natural resources within the limits able to maintain quality and balance of nature; preserve, on the other hand, corresponds to not use and do not allow human intervention passed on to the environment. Save

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Elkington (2012) explains that the idea of sustainability, although not fully applied, is widely spread and its observation is considered a major impact on decisions in the business world. Although some executives assert that it is not his duty to save the world, it is widely realized the importance of the role of business as responsible for sustainable development.

Even as understanding Days (2011), the passage of predatory development to the stage of sustainable development has many implications. For the author, it changes the vision and the relationship of people with nature, where it is seen not as a mere supplier of raw material, but as the necessary environment to all human life. In addition, this new type of development involves the rational management of natural resources, while amending the productive and social organization that, over time, has produced and reproduced the existing situation of inequality and poverty, creating new values and taking the focus on profit and putting a priority the welfare of humanity.

However, Donaire (2013) emphasizes that, in the case of Latin American countries, due to the numerous problems that affect the region (such as external debt, economic stagnation) comes up widening the gap between it and the developed world, there was a deterioration of a great deal of welfare standards of the population, with the production systems and degradation of the incidence of high inflation rates, causing environmental issue to be relegated to the background, with only a few isolated actions. He points out that before these issues becomes difficult to "convince those in power that the environment is a priority" (Donaire, 2013, p. 30).

Doinaire (. 2013, p 30) further states that the issue of poverty has a direct influence on the environment: "Poverty means, among other things, important environmental deterioration process, as it is virtually ransacked according to basic needs the most needy. " Also points out that "pollution of the poor" is a key element in the environmental deterioration process, providing unprecedented element of environmental concerns, given its characteristics and scope, compared to the environmental problems of the developed world. This issue has a direct relationship to sustainable development, therefore, when considering the poverty factor in its analysis, you can see a difficult application, because the present generation is not being met even in their basic needs.

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## IV. The State's Role

Living in a preserved environment, quality of life and conditions that benefit people's health is a human right. In Brazil, the Federal Constitution of 1988 addresses in its Chapter VI the Environment, which, in its Article 225 states that: "Everyone has the right to an ecologically balanced environment and of common use and essential to a healthy quality of life Laid both the Government and the community the duty to defend and preserve it for present and future generations." (BRAZIL, Art. 225, CF, 1988). This position shares the responsibility for ensuring environmental rights not only for the government but also the company itself, which is at the same time, transforming agent of the environment and also who is susceptible in this transformation.

Currently, one of the most direct ways that the state has to contribute to the preservation of the environment, while providing the company the right to sustainable development is through the tax institution, whose revenue can be used for the preservation and promotion the environment, as so-called environmental taxes (also known as ecological taxes), which are part of the so-called green economy.

Taxes are actually tools that the state has to obtain revenue, seeking from them, the appropriate application for the provision of services and development of public policy interest of the whole society.

The national development advocated in art. 3 of the Federal Constitution, will not be achieved in another way without the consideration of the environmental variable, carved in the Arts. 170 and 225 of our Constitution, the basic premise of sustainable development. In turn, is part of the government positively contribute to an ecologically balanced environment, via application of funds or tax incentives, since the state can act and interfere in the economy through the tax institution, whether with tax functions, quasi or extrafiscal.

As Machado Second (2018), the taxes with extrafiscal function are those established with goals that go beyond their own collections. They can be used in various ways, including the achievement of results in order to achieve the reduction of negative externalities (such as the preservation or conservation of the environment and the mitigation of negative impacts suffered) as part of a policy public socio-economic and



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environmental development. The state action thus be guided to correct, minimize or even promote the protection of the environment, that is, is a way of inducing national development through an environmental tax policy.

In art analysis. 170, Item VI of the Constitution, which deals with the Economic and Financial Order, it may be noted that to ensure everyone a decent life, a fundamental human right, it should be considered as a basic principle the environmental variable:

> Art. 170. The economic order, founded on the value of human work and on free enterprise, is intended to ensure everyone a life with dignity, according to the dictates of social justice, on the following principles:[...]
>
> VI - environmental protection, including by differential treatment as the environmental impact of products and services and their development and delivery processes.

Brazilian realizes that the State had the concern to establish in its Constitution guiding principles of sustainable development as pillars of society, whereas the ecologically balanced environment is essential to achieve this development. This is a concern imbued with the spirit of solidarity / fraternity printed in the Preamble of the Charter itself Brazil's largest, as sustainable development is concerned not only with today, but also future generations and their welfare. The idea of promoting sustainable development is not only preserve the environment and promote development able to provide a quality of life for the whole society, but above all a matter of promoting the dignity of the human person.

## V. Final

Human rights include a number of rights, ranging from the right to life, liberty, equality, and issues such as the environment. Classified into categories, called "dimensions" or "generations", the environment found in the third dimension of these rights.

The protection of the environment as an essential condition for the right to life, puts this right as part of those that underpin human rights.

Have an ecologically balanced and secure environment is key to economic development, which, in turn, is necessary for society to also develop to its fullest and enjoy a well-being.

It is from the balance between the economic, ecological and social variables that has sustainable development, the result set of actions of all walks of life and whose benefits are felt not only the present generation but also for future generations.

Responsibility for sustainable development is shared among multiple actors such as businesses, governments and society. In Brazil, the Government is the one responsible for all to have secured the right to an ecologically balanced environment, which is considered an asset of common use and essential to a healthy quality of life, and the State and society the duty of defend it and preserve it for present and future generations.

In this work, the aim was to show that ecologically balanced environment and the quality of life is a human right and an obligation of the State, which should promote and provide it to the whole society.

Indeed, it was shown that the state has a very important role in preserving the environment and ensuring the human right to sustainable development, developing public policies to promote sustainable development and quality of life, while developing mechanisms through which investment is allowed for this purpose.

Finally, it is clear that in Brazil the actions involving the quest for the promotion and protection of the environment are still incipient, lacking expansion and implementation by the state, since it is no easy task allocate resources to an area that, despite from clear its importance, it is a perception that has not reached every society, yet. Many variables influence this scenario, as the population's education level, which shows that the higher the education, the greater concern for the environment. This is still a challenge for Brazil, as a well-informed population is more able to demand of the government such actions. And if the state can be inducer of these actions, the company itself may also, or even more so, since, as own the Federal Constitution (Art. 1, sole paragraph), "All power emanates from the people [...]"

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