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## THE INTERFACE OF ENVIRONMENTAL RIGHTS WITH THE ECONOMIC RATIONALITY OF UNLIMITED GROWTH

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**Abstract:** The problems resulting from the production process continue to degrade the environment and compromise the quality of life on planet Earth. Global warming, caused by excessive greenhouse gas emissions, is a problem that worries the community the most, because if the aforementioned gas emissions persist at very high levels, the phenomenon of entropy may occur and cause serious problems and even the enthalpy death of the planet. Thus, to answer whether measures based on economic rationality are sufficient to ensure intergenerational environmental rights, this study compiled a database, adopted the hypothesis of partial compliance with the reduction of greenhouse gas emissions by the States, and applied the inductive theoretical-bibliographic method. In this way, it was possible to answer the issue problematized in the research.

**Keywords:** Environment; Degradation; Global warming; Greenhouse gases, Entropy.

## INTRODUCTION

The rights that establish a balanced and sustainable environment and economic growth are respectively set out internationally in the Declaration on the Human Environment, proclaimed at the UN Conference (United Nations) held in Stockholm in 1972, and in the Declaration on the Right to Development, proclaimed by resolution 41/128 at the UN General Assembly on December 4, 1986. However, problems related to environmental degradation persist in contemporary society. One of the most worrying problems is the emission of gases—carbon, chlorofluorocarbon, methane, and nitrous oxide—which impact the ozone layer and produce the infamous greenhouse effect, by raising the planet's

temperature. The inconveniences of the greenhouse effect are evident and there is no question about the negative effects of the uncontrolled rise in global temperature on the lives of people and other species on planet Earth. Therefore, are the measures adopted, based on economic rationality, sufficient to ensure intergenerational environmental rights? To answer these questions, this research compiled a database on the topic, considering the hypothesis that the States partially meet the target of reducing the aforementioned greenhouse gases to avoid unwanted global warming. In this way, using the inductive theoretical-bibliographical method, it was possible to respond to the issue problematized above.

## INTERGENERATIONAL ENVIRONMENTAL LAW AND SUSTAINABLE ECONOMIC DEVELOPMENT

Awareness of the need for environmental preservation and consequently the fight against environmental degradation gained visibility and relevance after the United Nations Conference on the Environment.

Since the 1970s, following the publication of the United Nations Declaration on the Human Environment in Stockholm in 1972, environmental rights have been conceived and valued in a manner consistent with their importance.<sup>1</sup> In the Brazilian State, the constituent lawmaker dedicated a specific chapter to the environment, Chapter VI. Article 225 of the 1988 Federal Constitution establishes intergenerational environmental rights, which states that everyone has the right to an ecologically balanced environment, a common good for the people, and essential to a healthy quality of life. The Public Power and

1. RESENDE, Antonio Donizetti de; BRASIL, Deilton Ribeiro. The interface of sustainable development and degrowth in the pursuit of socioeconomic and environmental balance in contemporary society. *Revista Jurídica Unicuritiba*. Curitiba, v. 4, n. 71, p. 482-515, 2022. Available at: <https://revista.unicuritiba.edu.br/index.php/RevJur/article/view/6156>. Accessed on Nov 10, 2023. (Our translation).

the community are required to defend it for present and future generations.

However, the right to economic development is also established both domestically (art. 3, item II, art. 21, item IX, and art. 174, § 1, all from the Federal Constitution of 1988) and internationally (Declaration on the Right to Development, Resolution 41/128 of the UN General Assembly, of December 4, 1986). Both rights must be respected and applied in a specific case in a harmonious and rational manner. The aforementioned Declaration on Economic Rights states (art. 1, § 1) that the right to development is an inalienable human right, by which every person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development, in which all human rights and fundamental freedoms can be fully realized. Art. 2, § 1, of the aforementioned Declaration establishes that the human person is the central subject of development and should be an active participant and beneficiary of the right to development.

However, as established in Principle 1 of the Declaration on the Environment: man has the fundamental right to freedom, equality, and the enjoyment of adequate living conditions in an environment of a quality that allows him to lead a dignified life and enjoy well-being, and he has a solemn obligation to protect and improve the environment for present and future generations.

Enrique Leff<sup>2</sup> notes that: “environmental values arise against the culture of power based on technological reason and economic rationality”. The aforementioned Declaration established the right to intergenerational equity, ensuring that human beings of

present and future generations have the right to enjoy a balanced and sustainable environment. Therefore, the biotic situation of planet Earth must be preserved. The theory of intergenerational equity is incompatible with classical anthropocentrism since the epistemological matrix used to support classical anthropocentric theory does not include the principles of solidarity and holistic extension present in the theory of intergenerational equity.<sup>3</sup>

In these terms, Klaus Bosselmann questions that the Rio de Janeiro Declaration on the Environment (Eco/92) did not observe the literal meaning of Principle 1, established in the Stockholm Declaration of 1972 (intergenerational equity), because the aforementioned Rio Declaration of 1992 states, in Principle 1, that human beings are at the center of concerns for sustainable development. They have the right to a healthy and productive life, in harmony with nature. (Classical anthropocentric theory). However, on the other hand, he states that ninety-seven Constitutions follow in another direction. They contain provisions that make it a duty of the national government to prevent damage to the environment. In addition, fifty-six Constitutions recognize the responsibility of citizens or residents in their respective States for protecting the environment.<sup>4</sup>

The case of *Duarte Agostinho e outros vs. Portugal* and 32 other States, which is being processed by the European Court of Human Rights (39371/20), is a good example to illustrate the above statements. Based on the European Convention on Human Rights, six young Portuguese people are claiming their

2. LEFF, Enrique. **Saber ambiental**: sustentabilidade, racionalidade, complexidade, poder. Tradução de Lúcia Mathilde Endlich Orth. 11. ed. Petrópolis: Vozes, 2015, p. 87.

3. RESENDE, Antonio Donizetti de; BRASIL, Deilton Ribeiro; SOARES, Denise Maria. A sociedade de risco e as dimensões dos direitos humanos no direito ambiental. In: MIRANDA, Jorge; GOMES, Carla Amado (Coord.). CAÚLA, Bleine Queiroz; VILAS BOAS, Marco; LINS, Mateus Rodrigues (Org.). **Diálogo ambiental constitucional internacional**: estado de direito, ambiente e natureza. V. 15. Palmas: Editora Esmat, 2020, p. 57.

4. BOSSELMANN, Klaus. **O princípio da sustentabilidade**: transformando direito e governança. Tradução de Phillip Gil França. São Paulo: Revista dos Tribunais, 2015, p. 157-161.

intergenerational environmental rights before the aforementioned Court.

According to an article published in the newspaper Estado de São Paulo by journalist Lucas Carlos Lima, entitled: *Jovens litigam as mudanças climáticas*<sup>5</sup>, the aforementioned authors of the case *Duarte Agostinho e outros vs. Portugal* and 32 other States aim to alert and force the countries that are on the passive side of the aforementioned action to act and implement effective measures to reduce the emission of greenhouse gases—carbon—and thereby mitigate global warming and other climate catastrophes.

Despite the aforementioned questions about Principle 1 of the Rio de Janeiro Declaration on Environment and Development, Principle 3 of the aforementioned Declaration provides for intergenerational rights, by establishing that the right to development must be exercised to allow the needs of present and future generations to be equitably met.

However, Fritjof Capra understands that the model adopted by economic rationality, called shallow ecology, is anthropocentric, and centered on human beings. In this conception, human beings are positioned as the source of all values, and above or outside of nature, only instrumental or use value is attributed to nature. Thus, the aforementioned author defends deep ecology—biocentric—which does not separate human beings or anything else from the natural environment. However, this requires the expansion of the current perception and way of thinking about ecology in terms of values.<sup>6</sup>

5. LIMA, Lucas Carlos. **Jovens litigam as mudanças climáticas**. Jornal Estado de São Paulo. Edição nº 47.495, folha A6, Espaço aberto, de 31 de outubro de 2023.

6. CAPRA, Fritjof. **A teia da vida: uma nova compreensão científica dos sistemas vivos**. Tradução de Newton Roberval Eichenberg. São Paulo: Cultrix, 2006, p. 25-27.

7. NAÇÕES UNIDAS BRASIL. **Objetivos de Desenvolvimento Sustentável**. Available at: <https://brasil.un.org/index.php/pt-br/sdgs>. Accessed on Nov. 10, 2023.

8. MINISTÉRIO DO MEIO AMBIENTE. **Clima: Brasil entrega ratificação a ONU**. Lucas Tolentino. Published on Sep. 21, 2016. Available at: <https://www.gov.br/mma/pt-br/noticias/noticia-acom-2016-09-1868>. Accessed on Nov. 10, 2023.

9. LEFF, Enrique. **A aposta pela vida: imaginação sociológica e imaginários sociais nos territórios ambientais do sul**. Tradução de João Batista Kreuch. Petrópolis: Vozes, 2016, p. 293.

The UN established, through the United Nations Framework Convention, the “Sustainable Development Goals” SDG 13 and 16, which propose several measures to achieve sustainable development and combat climate change and its respective impacts. However, the goals have not yet been achieved<sup>7</sup>. The Kyoto Protocol (1997) and Doha Protocol (2012) established targets for reducing greenhouse gases for countries considered developed, but in both cases, the target was not met. The Paris Agreement (2015) also established targets for reducing greenhouse gas emissions, aiming to keep the increase in these gases below 2 °C, above pre-industrial levels. The Brazilian State ratified this agreement and aims to reduce emissions of these gases by 37% by 2025 and by 43% by 2030. Both reductions are based on the levels of greenhouse gas emissions from 2005.<sup>8</sup>

The increasing levels of greenhouse gas emissions and global warming can cause the phenomenon of entropy. With this, Enrique Leff warns that the ecological alarm has sounded in a countdown that contracts time and has the paradigm of the unstoppable advance of global warming that foretells the enthalpy death of planet Earth.<sup>9</sup> With the same questions (excerpt below), Juarez Freitas warns that the ecosystem is approaching its limit of exhaustion.

The irrationality that leads to catastrophe is nothing more than the result of wasteful desires and the illusion full of sophisms of unlimited (unshared) material growth as the ultimate goal. [...]. The undeniable climate changes cannot be ignored, given their

devastating impacts, which is why, in light of sustainability, they require a commitment to rigorous targets for reducing greenhouse gas emissions (without generating predatory environmental warfare between States). [...]. The ecosystem is rapidly approaching the limits of exhaustion.<sup>10</sup>

As explained, the perpetual economic growth model cannot be accepted. This model, advocated by economic rationality, feeds on finite natural resources, degrades the environment, and produces undesirable greenhouse gases, which heat the planet, unbalance the ecosystem, and promote natural disasters.

If a system is isolated, that is, it does not exchange energy (or matter) with the surrounding environment, the so-called law of entropy arises. If an isolated system undergoes a transformation, from an initial state A to a final state B, the entropy of the final state is never less than the entropy of the initial state, which means that entropy always increases.<sup>11</sup>

The adopted measures—based on the concepts of economic rationality—to reduce greenhouse gas emissions and limit the rise in global temperatures have not been as effective as they should have been. The increasing rise in global temperatures could cause several problems, such as the disappearance or reduction of ice sheets in the polar ice caps

and permafrost (layers of ice, soil, rocks, and other underground sediments that retain carbon) and, consequently, the increase in carbon emissions and ocean water levels, the destruction of forests, natural biomes, etc.

The model adopted by economic rationality is based on anthropocentric concepts and is therefore not compatible with the principle of intergenerational equity. Given that it conceives natural resources only as means (inputs) necessary for production and unlimited economic growth.

## FINAL CONSIDERATIONS

As explained, the model of unlimited economic growth advocated by economic rationality does not meet the principles of sustainability and needs to be improved. Measures based on economic rationality are not sufficient to ensure intergenerational environmental rights. The simple internalization of ecological costs is not enough to ensure intergenerational environmental rights; mechanisms need to be added to balance the production process and preserve the global environment. The outdated concepts of economic rationality must be overcome, as they still admit environmental degradation, and new paradigms must be developed based on socio-environmental rationality.

10. FREITAS, Juez. **Sustentabilidade**: direito ao futuro. 4. ed. Belo Horizonte: Fórum, 2019, p. 38-43.

11. ULGIATI, Sergio. Entropia. In: D'ALISA, Giacomo; DEMARIA, Federico; KALLIS, Giorgos. **Decrescimento**: vocábulo para um mundo novo. Porto Alegre: Tomo Editorial, 2016, p. 138.

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