Environmental legislation and policy: from national to municipal

DOI: 10.46932/sfjdv5n4-004

Received on: Mar 01st, 2024
Accepted on: Apr 02nd, 2024

Juliano dos Santos Lago
Graduate in Law, Specialist in Environment
Institution: Comissão de Meio Ambiente da Ordem dos Advogados do Brasil
Address: Av. José Andrade Soares, s/n, Novo Horizonte, Valença – BA, CEP: 45400-000
E-mail: santoslago@gmail.com

ABSTRACT
The elaboration of the research project consisted in tracing a brief history of Brazilian environmental legislation since the colonial period, in presenting the nuances of the Constitutional chronology of Environmental Law in Brazil, in listing the laws that provide for National Policies aimed at the national environment, in criticizing the judicial and administrative flexibility of environmental rules, in presenting the teleological bias to the dismantling of the state apparatus of environmental defense, as well as the reflexes of the institution of National Policies in the municipal legal system with a focus on the Municipality of Valença-Ba. Finally, the understanding of the reflexes of the National Environmental Policy in the Legal Order of Brazilian Municipalities was critically concluded.

Keywords: Environmental Law, Normative Constitutionalization, Environmental Federalism, Normative Flexibility, Municipal Standardization.

1 INTRODUCTION

The general objective was to prepare a critical work that is guided in tracing a timeline that permeates the historical period, the pathways and the flexibilization of Brazilian Legislation and Environmental Policy, as well as its reflection on the quality of life of the population of Brazilian municipalities with a cut in Valença-Ba.

In spite of the difficulty in condensing all the environmental normative framework of the National to the Municipal in a single academic work, it was sought to address the historical context of Environmental Law, to elaborate a chronological provision of Environmental Legislation in Brazil, to list the National Policies List focused on the main environmental issues of the country, to criticize the federalism of environmental norms with a cut in the Municipality of Valença-Ba and to reflect on the newest normative provisions inserted in the legal order of municipalities.
2 METHODOLOGY

Research was carried out on the internet search sites, in the scientific articles made available, in the doctrinal books that version about the theme, in the portals of the Superior Courts and in the portals of legally constituted administrative environmental bodies. All content pertinent to the theme was condensed into this textual production.

3 BRIEF HISTORY OF ENVIRONMENTAL LAW IN BRAZIL

Brazilian environmental legislation has never hidden its purposes since Brazil was still a Portuguese colony. Our forest wealth has always been one of the great delicacies pursued by the European colonizers.

With a view to the growth of their territories and the maintenance of their political tutelage in the conquered colonies, the first European\(^1\) Legal Code was instituted on 12 March 1393, based on Canon Law and Roman Law, known as the Afonsinos Code or Ordinations Afonsinas, in honor of King Alfonso IV who occupied the throne of the time. This Legal Code, although European, was in force in Brazilian territories during the beginning of the period of the discovery.

Even though the disciplines of the Afonsian Ordinations had the power to preserve the Brazilian forests, as if they were concerned with the protection and preservation of our natural riches, including typifying the cutting of fruit trees as a crime of insulting the King, the teleology of the legal devices was, in truth, the maintenance of power over the conquered territories through the maintenance of the Monopoly of the Crown on the exploitation of colonial woods.

The legal protection of the forest resources of the Brazilian colony was not sufficient to maintain the Political Monopoly of the Portuguese Crown, since there were constant French, Dutch and English attacks interested in "smuggling" the Brazilian woods.

In short, the real purpose of the legislation applied was not to preserve the Brazilian fauna and flora, but rather to monopolize the exploitation of forest resources by the Kingdom of Portugal, so much so that the woods marketed by the Portuguese Crown were called hardwood, an expression that persists until the present day.

Still in the Brazilian colonial period, a series of environmental norms were instituted to try to secure the Portuguese monopoly, even if it presented itself as a discipline of environmental\(^2\) protection.

---


In 1605, the first Brazilian forest protectionist law was created, the About the Brazilwood Regiment. This regiment forbade the cutting of wood without express royal authorization, and if anyone did not comply, there would be stiff feathers.

This regiment was inserted into the Regiment of Relation and House of Brazil in March 1609 - First Brazilian Court - located in the city of Salvador, with jurisdiction over the entire colony.

In the reign of King John VI there was the institution of the Botanical Garden through a Royal Decree dated June 13, 1808.

Still in the imperial period, there was the promulgation of the first Brazilian Penal Code, in 1830, which already provided for a prison sentence and a fine for those who made illegal cutting of timber. It was in this penal and sanctioning code that the Theory of the Remediation of Ecological Damage arose.

With the promulgation of the first Brazilian Republican Constitution in 1891, the environmental issue was dealt with only in Article 34, Inciso XXIX, which described the competence to be attributed to the Union to legislate over its mines and lands.

The most significant changes came in the period after the Revolution of 1930, with the promulgation of the First Brazilian Forestry Code, approved by Federal Decree 23,793, dated January 23, 1934. As far as this code is concerned, its provisions forbade the owners of land covered by forests to cut down three-quarters of the existing vegetation, except for spontaneous or resulting from work of the Public3 Administration. One can see, therefore, that the Brazilian State, even changing from Empire to Republic, never wanted to lose hegemonic control over environmental resources, under the banner of protection and guardianship.

With the growth of bourgeois forces and the rise of the power of mercantilism in the Republican period, legal protection became obsolete to maintain state hegemony. In this scenario, Law 4,771/65 (Brazilian Forestry Code)4 was published, which once again presented itself as a legal instrument for protecting our forests, but its purpose was to inhibit the forest mercantile power by restricting the right to property and uncontrolled exploitation of forest resources by private individuals. The purpose was to impose difficulties on the emerging to obtain facilities from the dominant.

However, the Brazilian Forestry Code of 1965 instituted the Permanent Protection Areas, in its Article 2, and the mandatory maintenance of a Reserve in every rural property, in its Article 16, which served as a ballast for the Legal Reserve of the Forestry Code that entered into force in 2012, for express purposes of conservation of the Forest Coverage in the country.


The Constitution of the Federative Republic of Brazil of 1988 was born breaking several paradigms, mainly regarding environmental issues. The so-called Citizen Constitution elevated environmental protection and precaution to the status of Constitutional Principles, conditioning the exercise of economic activity, of free initiative and of the right of property to the maintenance of the ecologically balanced Environment, in the manner of Article 225 of the CRFB/88, namely:

Art. 225. Everyone has the right to an ecologically balanced environment, a good in the common use of the people and essential to a healthy quality of life, and the Public Power and the collectivity have the duty to defend it and preserve it for present and future generations.

Several legal and sublegal texts were issued after the promulgation of the Citizen Constitution, but all had to be guided by the Constitutional Principles of Precaution and Prevention, under penalty of having no effect, in the event of being declared unconstitutional through a Declaration of Unconstitutionality Action (ADIN) or Declaratory Action for Failure to Comply with Fundamental Precaution (ADPF), both are concentrated controls of constitutionality, also provided for in the Magna Carta of 1988.

Currently, in Brazil, besides the Federal Constitution of 1988, there is an immense capillary of norms of environmental protection. Because it is a concurrent competence between the entities of the federation, Environmental Law is governed, principally, by laws, ordinances and resolutions of the federal, state, district and municipal ambit.

4 ENVIRONMENTAL CONSTITUTIONALIZATION IN BRAZIL

The advance of Ecologically Balanced Environmental Protection given by the 1988 Constitution to Brazilian Environmental Law is undeniable. However, some infraconstitutional norms, although in theory they must pass through the screening of the Preventive Control of Constitutionality by the parliamentary commissions and the Repressive Control of Constitutionality by the aforementioned constitutional actions (ADIN and ADPF), have brought setbacks in the protection of Brazilian fauna and flora.

From a plan, it should be stressed that the form of the Brazilian State is Federation, which confers a certain constitutional autonomy on the federative units, even though they must be guided by the Magna Carta. Therefore, the State Constitutions have already undergone their regional adaptations at the time of their enactments. In addition, state, district and municipal norms, whether laws, decrees, resolutions or ordinances, also carry a regionalized hermeneutics in their devices. However, it does regulate the 1988 Constitution itself, which gives municipalities the private power to legislate on matters of local interests.

---

However, this constitutional easing served as an artifice to discipline the environmental legal order, whether regional, state or municipal, in accordance with the interests of the Local Oligarchic Aristocracies.

According to Leuzinger and Varella⁷,

The 1988 constituent had the merit of conferring constitutional status on environmental protection. This is a process of constitutional confluence, by which more than one third of the states of the planet have amended their respective constitutions, incorporating environmental values. Each State adapted its fundamental law in function of its own peculiarities, revealing, in a way, its vision about the environment, protection and conservation of its territory. This is because the relationships between human societies and the environment that surrounds them are the fruit of culture, possessing, each group, peculiar ways of relating to nature, which may or may not be sustainable.

Before entering into the legal provisions subsequent to the 1988 Constitution, it is necessary to mention the edition of Law 6938 of 1981, which instituted the National Environment⁸ Policy, which was approved by the CRFB/88 and remains in force until the present day.

Following the promulgation of the Magna Carta in 1988⁹, which declared the Balanced Environment as a fundamental precept, several other diplomas emerged with the socio-environmental condon of strengthening the protection and preservation of natural resources by the State and by Society in general.

5 BRAZILIAN ENVIRONMENTAL POLICY

Although they are not chronologically listed, after the 1988 Constitution, various National Policies are instituted in the country with the appearance of environmentalism, but they must be analyzed with a certain skepticism, in spite of the intentions and interests that the national legislator predisposes himself. Finally, taking as a ballast the disposition set out by the illustrious Professor Édis Mileré, in his work Direito do Ambiente¹⁰, but without much depth, it is possible to list some of the guidelines of the Brazilian environmental policy instituted, as follows:

---

5.1 THE NATIONAL WATER POLICY\textsuperscript{11}

Established by Law 9.433 of 1997, the National Water Resources Policy was born with the objectives of ensuring the necessary availability of water to current and future generations, at quality standards appropriate to their respective uses; the rational and integrated use of water resources, including water transport, with a view to sustainable development; the prevention and defense against critical hydrological events of natural origin or arising from the inappropriate use of natural resources; encourage and promote the capture, preservation and use of rainwater.

5.2 NATIONAL ENVIRONMENTAL EDUCATION POLICY\textsuperscript{12}

Established by Law 9.795 of 1999, the National Environmental Education Policy was born with the objectives of ensuring the development of an integrated understanding of the environment in its multiple and complex relationships, involving ecological, psychological, legal, political, social, economic, scientific, cultural and ethical aspects; the democratization of environmental information; the stimulation and strengthening of a critical awareness about environmental and social problems; the encouragement of individual and collective participation, permanent and responsible, in the preservation of the balance of the environment, understood the defense of environmental quality as an inseparable value of the exercise of citizenship; the stimulation of cooperation between the various regions of the country, micro- and macro-regional levels, with a view to building an environmentally balanced society, founded on the principles of freedom, equality, solidarity, democracy, social justice, responsibility and sustainability; fostering and strengthening integration with science and technology; strengthening citizenship, self-determination of peoples and solidarity as foundations for the future of humanity.

5.3 NATIONAL URBAN POLICY\textsuperscript{13}

Established by Law 10.257 of 2001, the National Urban Policy emerged with the objective of ordering the full development of the social functions of the city and of urban property.

5.4 NATIONAL BIODIVERSITY POLICY\textsuperscript{14}

Established by Decree n° 4.339 of 2002, the National Biodiversity Policy has emerged with the general objective of promoting, in an integrated manner, the conservation of biodiversity and the sustainable use of its components, with the fair and equitable sharing of the benefits derived from the use of genetic resources, components of the genetic heritage and traditional knowledge associated with these resources.

5.5 THE NATIONAL POLICY OF BASIC SANITATION\textsuperscript{15}

Established by Law 11.445 of 2007, the National Policy of Basic Sanitation came up with the principles of ensuring the universalization of access and effective provision of the service; completeness, understood as the set of activities and components of each of the various sanitation services that provide the population access to them in accordance with their needs and maximize the effectiveness of actions and results; water supply, sanitary depletion, urban cleaning and management of solid waste carried out in a manner appropriate to public health, conservation of natural resources and protection of the environment.

5.6 THE NATIONAL POLICY FOR THE SUSTAINABLE DEVELOPMENT OF TRADITIONAL PEOPLES AND COMMUNITIES\textsuperscript{16}

Established by Decree n° 6.040 of 2007, the National Policy for the Sustainable Development of Traditional Peoples and Communities has emerged with the general objective to observe the recognition, valuation and respect for the socio-environmental and cultural diversity of traditional peoples and communities, taking into account, among other aspects, the ethnic, race, gender, age, religiosity, ancestry, sexual orientation and labor activities, among others, as well as the relationship of these in each community or people, so as not to disrespect, subsume or neglect the differences of the same groups, communities or peoples, or to establish or strengthen any relationship of inequality.


5.7 NATIONAL POLICY ON CLIMATE CHANGE\textsuperscript{17}

Established by Law 12,187 of 2009, the National Policy on Climate Change came up with its directives aimed at making economic and social development compatible with the protection of the climate system; reducing anthropic emissions of greenhouse gases in relation to their different sources; preserving, conserving and restoring environmental resources, with particular attention to the great natural biomes considered as National Heritage; the consolidation and expansion of legally protected areas and encouraging reforestation and the recomposition of plant cover in degraded areas.

5.8 THE NATIONAL SOLID WASTE POLICY\textsuperscript{18}

Established by Law 12,305 of 2010, the National Policy on Solid Waste came up with the objectives aimed at protecting public health and environmental quality; not generating, reducing, reusing, recycling and treating solid waste, as well as environmentally adequate final disposal of waste; stimulating the adoption of sustainable production and consumption patterns of goods and services; adoption, development and improvement of clean technologies as a way to minimize environmental impacts.

5.9 NATIONAL URBAN MOBILITY POLICY\textsuperscript{19}

Established by Law 12,587 of 2012, the National Urban Mobility Policy was founded on the objectives of universal accessibility; sustainable development of cities, in the socio-economic and environmental dimensions; equity in citizens' access to public transport; efficiency, effectiveness and effectiveness in the provision of urban transport services; democratic management and social control of the planning and evaluation of the National Urban Mobility Policy; safety in people's movements; efficiency, effectiveness and effectiveness in urban circulation.


5.10 THE NATIONAL POLICY OF TERRITORIAL AND ENVIRONMENTAL MANAGEMENT OF INDIGENOUS LANDS

Established by Decree no 7.747 of 2012, the National Policy of Territorial and Environmental Management of Indigenous Lands arose with the objective of guaranteeing and promoting the protection, recovery, conservation and sustainable use of the natural resources of indigenous lands and territories, ensuring the integrity of the indigenous heritage, the improvement of the quality of life and the full conditions of physical and cultural reproduction of current and future generations of indigenous peoples, respecting their socio-cultural autonomy, in accordance with the current legislation.

6 STATE RELAXATION OF ENVIRONMENTAL LAW

The flexibility of Brazilian environmental policy occurs latently in the acts of the Executive Power, teleologically in the legal provisions approved by the Legislative Power and in a more subtle way in the jurisprudential understanding of the Judicial Power. In short, all the powers of the Federative Republic of Brazil have a part of relaxing the coercivity of Environmental Law, even though this is not so rigorous.

We understand Environmental Law with the bias of applied science formed by principles and norms that guide social relations and the ecologically balanced environment. What happens in practice is that social relations change and environmental law has accompanied these changes through legal sociology, where law interferes in society and social relations structure the legal framework.

Thus, the Brazilian environmental policy is born more flexible. In the article O meio AMBIENTE NA CONSTITUÇÃO FEDERAL E NA LEGISLAÇÃO INFRACONSTITUCIONAL: ADVANCES OU RETROCESSOS [THE ENVIRONMENT IN THE FEDERAL CONSTITUTION AND IN THE INFRACONSTITUTIONAL LEGISLATION: ADVANCES OR RETROCESSES], professors LEUZINGER and VARELLA21 list an illustrative list of setbacks in Brazilian Environmental Policies that occurred after the year 2000, such as “the release of the successive harvests of RR soybeans, planted illegally; the amendment of the Law that established the National System of Conservation Units; and the repeal; and the repeal of 16555555555555555555550555500050000000000000000000000 One can add to this list the Pro-Alcohol Program, the Belo Monte Dam Project, the pseudo regulatory landmark

---


for basic sanitation and the tendencies for privatization of the territories administered by the Secretariat of Patrimony of the Union (SPU).

In fact, Brazilian environmental policy is being much more than made more flexible, it is serving as an instrument of speculative capital for valuing sustainability.

7 STATE ENVIRONMENTAL DISMANTLING TELEOLOGY

Within the legislative spectrum, what matters is the purpose of the law, in other words, what the legislator intends, what is called in Latin mens legis, or spirit of the law. It is against this backdrop that the pressure of the large corporations for making legislation more flexible, both of a preventive nature and of a repressive nature, occurs.

Thus, Environmental Legislation, which has already achieved great preservationist achievements, as far as the ecologically balanced environment is concerned, currently serves only as a sustainable instrumentalization of large enterprises. With the philosophical adaptations of the laws occur the normative adaptations. The value would not only be monetary, as one thinks at first, but the philosophical value of what is presented was what was once a diffuse, unavailable and non-negotiable right.

In the Judiciary, there is no need to put pressure on magistrates, they must follow the guidelines of case law. The decisions taken in the Supreme Court, as a rule, has binding effect, binds all Judiciary and Executive Power, and has erga omnis effectiveness, reaches everyone in general. The individual judge must give his decision by free motivated conviction and cannot contradict the understanding of higher courts, adopting a common law bias, and can relax the principles of environmental law, or at least weigh them down.

Therefore, once the Principles are relaxed by jurisprudential understandings, and the norms, in the legislative context, the Environmental Law currently applied no longer has the preservationist bias in the context of Article 225 of the Constitution.

For example, in Brazil, there is already a case of decisions of Superior Courts allowing construction in Permanent Protection Areas (PPAs), since the Principle of Environmental Preservation is weighed up with the Principle of the Dignity of the Human Person, who needs a dwelling, and human rights prevailed. In contrast to these understandings that make environmental law more flexible, with the balance of justice hanging over the human being, the Law of Nature arises. Nature, just like man, needs to have a place in the disputes that involve his balance also as a Subject of Law, capable of having specific and absolute protection in the disputes that put in check Environmental Preservation, since the damages tend to be irreversible.
Just as the relaxation of Brazilian Environmental Policies in the Legislative Branch takes place in the spirit of the laws that are edited, in the Judicial Branch it takes place in the subtlety of the judicial decisions of the Superior Courts, in the Executive Branch, the flexibilization is an Environmental Policy. The Environmental Policy of the last Brazilian governments of the 21st century has been a relaxation of the legal order until the instrumentalization of environmental processes.

The scrapping of environmental organs does not only happen in the heritage spheres, as equipment and resources for the effective repression of environmental liabilities in all their genders. It also materializes in the normative framework. Goods of a diffuse nature, such as the ecologically balanced environment, are in theory inalienable, non-negotiable and unavailable, according to CRFB/88, but in practice the Public Prosecutor’s Office, both Federal and State, has concluded several Terms of Conduct Adjustment, the famous TACs, in countless concrete cases throughout Brazilian territory. It so happens that the national legal system does not provide for this kind of Legal Procedural Business in the sphere of Environmental Law.

Not too distant environmental crimes, still in the repressive bias, are classified by the Brazilian legal system as crimes of lesser offensive potential. This means that environmental criminals will almost certainly be tried by the Special Criminal Courts. They will be subject to Criminal Transaction (TAP), which is a kind of Legal Procedural Negotiation in the Public Criminal sphere and aims to avoid a Criminal Prosecution Condemning ownership of the Public Prosecutor.

The innovation of negotiating legal assets of an environmental nature is not restricted to the judicial sphere and is also positive in the state administrative repression in the edition of the JOINT ORDINANCE No. 589 of November 27, 2020 of the Brazilian Ministry of the Environment.

This Joint Ordinance brings in its Preamble its purpose that "It lays down guidelines and criteria applicable to the environmental conciliation phase of the environmental sanctioning process". There is nothing to be discussed as to the intention of the Ministry of the Environment to make Brazilian Environmental Policy more flexible by taking into the Administrative Process of the Brazilian Environmental Organs the business of legal procedures. In practice, it abolishes the obligations of environmental offenders and gives a blank check for degradation.

Finally, to further exemplify the easing of Brazilian Environmental Policies and the equipping of the preventive legal framework for the viability of supposedly sustainable enterprise, the NATIONAL POLICY OF PAYMENT FOR ENVIRONMENTAL SERVICES was instituted, along the lines of Law No. 14,119 of January 13, 2021.

---


Not content with a new philosophical valuation of the ecologically balanced environment and diffuse rights, the current attempt is being made to the teratological economic valuation of ecosystems as one of the objectives of this new Brazilian Environmental Policy, as provided for in Article 4, paragraph III of Law 14.119/21.

8 MUNICIPAL ENVIRONMENTAL LAW, CUT-OFF IN VALENÇA-BA

The municipality of Valença-Ba\textsuperscript{24} geographically belonged to the Captaincy of São Jorge dos Ilhéus, donated to the Portuguese nobleman Jorge de Figueiredo Correia (1534) by the King of Portugal, Dom João III, and administratively, belonged to the Village of Nossa Senhora do Rosário de Cairu. By Royal Charter of January 23, 1779, the Vila da Nova Valença was created and officially installed on June 10, 1779. By virtue of the construction of the fabric factory called Todos os Santos in 1844, located on the banks of the Una River, on November 10, 1849, through a Resolution No. 368, received the city forum, going to be called Industrial City of Valença.

It was in this historical context of the Portuguese Colonization model that the Municipality of Valença-Ba was established with very little planning, except for the Residential Zone that defined the Neighborhood of Vila Operária. This neighborhood of the City was built for the purpose of housing the workers of the first Fabrica de Tecido do Brasil.

Currently\textsuperscript{25}, the municipality has an area of 1,123,975 km\textsuperscript{2} and an estimated population of 97,233 people. Because of the high number of people who live in its district, inserted in at least four biomes (Atlantic Forest, Beach, Restinga and Mangue), a solid environmental normative framework is necessary to sustain the preserved Environment for the current population and for future generations.

It is in this scenario that the Public Power has been mobilizing to constitute a legal movement for environmental preservation, even though this normative scope is difficult to have effectiveness and effectiveness in all municipal territory. One can highlight, therefore, the Municipal Environment Policy (PLAMMA)\textsuperscript{26} instituted by Complementary Municipal Law 001/2013, which was regulated by Municipal Decree 2.128/16.

Law 001 of July 23, 2013 establishes the Municipal Environment Policy, its principles, objectives and guidelines, creates the Municipal Environment System - SISMUMA, establishes the instruments for municipal environmental management and provides other measures, as provided in its preamble.

\textsuperscript{24} DOM. Diário Oficial do Município, Valença-Ba. Recuperado em 28 abril, 2022, de https://www.valenca.ba.gov.br/site/dados municipais#historia


\textsuperscript{26} DOM. Diário Oficial do Município, Valença-Ba. Recuperado em 28 abril, 2022, de https://www.valenca.ba.gov.br/site/leismunicipais
In addition, the purpose of the PLAMMA de Valença, although in theory, is to protect, conserve, preserve, control, improve and restore the ecologically balanced environment, along the lines of Article 1 of LCM 001/13.

The Municipal Decree 2.128 published on December 01, 2016 has the purpose of regulating the Municipal Environment Policy as regards the Municipal Environment System (SISMUMA) and the Instruments of the Municipal Environment Policy, such as the Municipal Environment Secretariat (SEMMA) and the Council of Environment Defense (CODEMA), as well as their respective competences.

Although these municipal legal institutes were created recently to guide the Municipal Environmental Policy, in practice environmental preservation was never a priority, since the institution of the city was given by virtue of the construction of a fabric factory and the survival of its workers. Thus, from its foundation until the present times, there is no envision of an Environmental Policy aimed at preserving the ecologically balanced Environment, as Article 225 of the CRFB/88 says.

The municipality of Valença-Ba, in the middle of 2022, 172 years after its emancipation, has never had a Municipal Plan for Integrated Management of Solid Waste, even though Federal Law 12,305/10 requires it. You don't have to be an expert on the subject to know where all the residue of your population has been destined all this time. In addition to the "junky points" of waste disposal mirrored by the city, one consequence of this abandonment, among others, is the inadequate accumulation of waste in the open air that has been disseminated through the districts, when not increasing the volume of garbage from the shameful and inhumane Orobó Garbage.

Likewise, or even worse, there is not even a Municipal Basic Sanitation Plan for its local population. The townspeople are fated to a medieval sanitation model similar to that practiced in Feudal Europe.

Not to mention that the Environmental Policy of Valença-Ba has been only darkness, there was the edition of Law 1.213 of 1990 with the purpose of discipline the occupation and use of the land of the municipality (LOUS), giving a limit to the disorderly growth fruit of the Portuguese colonization model, containing, albeit subtly, the exponentiality of the degradation of natural riches that are peculiar to the territory in which Valença-Ba is inserted. In spite of the fact that the LOUS has been timidly observed in the actions of the municipal public sphere, the power of the wild capitalist model has undermined its coercivity. Real estate speculation partially dominated the mangrove swamps within the zoning disciplined by the Valencian LOUS. What was delimited as a Permanent Protection Zone, today is a neighborhood called Novo Horizonte, which continues to be built on the mangrove swamps nowadays.
9 CONCLUSION

It is necessary that the Brazilian municipalities recognize themselves as members of SISNAMA and that the National Environmental Policies become concrete in the Municipal Environmental Plans, under the penalty of Private Law overlap with Diffuse Law. Despite the need for the Municipal Plans for Basic Sanitation (PMSB) and the Municipal Plan for Integrated Management of Solid Waste (PMGIRS) for quality of life of the population, but it is in the PLAMMA that the SISMUMA and institutional instruments for local environmental protection are created. The structure of the Municipal Departments for the Environment, as well as the Councils for the Defense of the Environment, and the system for the protection of sensitive ecosystems are examples of these instruments for the protection of the environmental law of the municipalities.

On the other hand, despite the local environmental preservation in the municipality of Valença-Ba, it was noted, for example, the perishing of several Natural Heritage sites that ensured the quality of life of the citizens. Candengo Waterfall is not accessible due to lack of security. The waters of the Pitanguinha River are no longer suitable for bathing. The Waterfall Factory, which has always been a leisure point, is no longer possible to attend. The Una River itself, which was once the scene of canoeing competitions, has countless obstacles to navigation, let alone bathing. The Sonrisal River, which has always served to remove salt from the waters of Guaibim Beach, is currently privatized. The springs that permeate the urban area are being gradually decimated, and the streams frequently undergo a canal requalification, with the purpose of allowing themselves to be built.

The scenario, which was no longer good, both in theory and in practice, has proved to be worse every day, with the degradation of the Natural Environment and, therefore, damaging the population's quality of life. The existing rules are not only not fully effective but tend to be repealed. Furthermore, there is a high incidence of irregular occupation of areas even protected by law, since the development model adopted for the country and for the municipalities does not have any effective environmental discipline.

In the light of the above, it is of paramount importance that each citizen or institution be an inspector of compliance with the provisions of the environmental standards of their municipality. In the event that one of the environmental regulatory provisions is missing or missing, effective action is required to collect from the Municipal Public Authority the drafting of its municipal environmental legal order, even those elements that do not have a legal requirement.

The main elements that, for example, make up the Municipal Environmental Legal Order are:

- Municipal Environment Plan (PLAMMA);
- Municipal Environmental Code (which regulates PLAMMA);
• Land Use and Occupation Law (LOUS);
• Urban Perimeter Law (LPU);
• Urban Development Master Plan (PDDU);
• Integrated Solid Waste Management Municipal Plan (PMGIRS);
• Municipal Basic Sanitation Plan (PMSB);
• Municipal Urban Mobility Plan (PMMU);
• Municipal Accessibility Plan (PMA);
• Municipal Socio-Economic Monitoring Plan (PMMSE);

These are some of the municipal legal instruments available for the viability of an environmentally planned city in Brazil
REFERENCES


