

Dream the impossible dream? An
ecosocialist account of the human
right to a healthy environment

*Sonhar o sonho impossível? Uma
abordagem ecossocialista ao direito
humano a um meio ambiente saudável*

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Abstract: The construction of a human right to a healthy environment (both in academia and practice) has so far tended to neglect some important structural problems posed by the actual stage of global capitalism. Some approaches to that right seem to rise from a mere legalist point of view, forgetting to rise up some important questions in the debate surrounding human rights and the environment. This article intends to explore the Ecosocialist readings in order to question the possibility or not to realize a human right to a healthy environment, focusing on the role of global capitalist relations and trying to spot where third world countries (especially Latin American ones) stand in the middle of these challenges and discussions. Our main conclusions were that: i) the ecological catastrophe sponsored by the capitalist system poses a serious threat to the possibility of a human right to a healthy and clean environment; ii) Ecosocialist claims are not inconsistent with human rights demands, on the contrary, they should reinforce each other's agendas in order to achieve a rights-based international

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Ecosocialist movement; iii) In Latin America, especially in Brazil, contemporary neoliberal policies have seriously undermined environmental protection efforts.

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Resumo: A construção do direito humano a um meio ambiente saudável (tanto na academia quanto na prática) até agora tendeu a negligenciar alguns problemas estruturais importantes colocados pelo estágio atual do capitalismo global. Algumas abordagens a esse direito surgiram de um ponto de vista meramente legalista, esquecendo-se de levantar algumas questões importantes no debate em torno dos direitos humanos e do meio ambiente. Este artigo pretende explorar as leituras ecossocialistas, a fim de questionar a possibilidade ou não de realizar um direito humano a um meio ambiente saudável, com foco no papel das relações capitalistas globais e tentando identificar onde estão os países do terceiro mundo (especialmente os latino-americanos) no meio desses desafios e discussões. Nossas principais conclusões foram as seguintes: i) a catástrofe ecológica patrocinada pelo sistema capitalista representa uma séria ameaça à possibilidade de um direito humano a um meio ambiente saudável e limpo; ii) As reivindicações ecossocialistas não são inconsistentes com as demandas de direitos humanos, pelo contrário, devem reforçar as agendas umas das outras para alcançar um movimento ecossocialista internacional embasado em direitos; iii) na América Latina, especialmente no Brasil, as políticas neoliberais contemporâneas minaram seriamente os esforços de proteção ambiental. **Palavras-chave:** Direitos humanos. Meio Ambiente. Ecossocialismo. Capitalismo global. Terceiro Mundo.

1 Introduction

Mostly viewed as a “rebel” doctrine seeking to aspire a worldwide vendetta on global capitalism (and capitalists), ecosocialism has often been sadly discarded on research programs and projects. However, as well put by Kovel (2008, p. 4), “the path to ecosocialism has to be made by those who will travel upon it”. Thus, even though we do not deny the need for structural reforms on global capitalism in order to achieve the “re-jointing” of nature, we are ought to disregard unprincipled radicalisms in our journey to explore the future relations between human rights and the environment.

We advert however, that is not the aim of this article to dive into the philosophical or metatheoretical discussions regarding the human right to a healthy environment, our goal is a more practical one: to explore how

the rights-discourse may be undermined when linked to environmental protection in the context of ever-growing global capitalist relations.

It is hard to deny – and even those who are the most sceptical about it might agree – that human rights have achieved great prominence in the contemporary world, both in academia and practice. As Professor Raz well stated, “this is a good time for human rights” (RAZ, 2010, p. 321), not because they have been observed and respected more than ever before, “it is a good time for human rights in that claims about such rights are used more widely in the conduct of world affairs than before” (RAZ, 2010, p. 321).

The language of rights has therefore entrenched world politics whether it has translated or not into actual practice. Since the globalization of the so-called “talk of rights” in the mid-20th century (Mazower 2004), human rights treaties and bodies have spread all around the world alongside transnational activism for such rights (SHELTON, 2015; KHAGRAM; RIKER; SIKKINK, 2002). However, divergent opinions have come to emerge regarding the foreseeable futures for human rights. Some scholars believe that these rights have proven to be ineffective (POSNER, 2014; HOPGOOD, 2013), whilst others have shown the power that the rights-talk has in delivering actual social change (RISSE; ROPP; SIKKINK, 2013).

With that said, our efforts shall be directed not in investigating the more general state of affairs regarding human rights possible futures, but rather how these rights, more specifically the right to a healthy environment, may be undermined in the context of – as we intend to argue later on – an unequal and unregulated global economy. A lot has been written already about the moral underpinnings of global capitalist expansion, as scholars and practitioners have gathered together to advocate for the idea that global capitalism “[...] must be not only entrepreneurial and technically competent, but buttressed and challenged by a strong and appropriate moral ecology” (DUNNING, 2003, p. 1), where the focus should be in both economic viability and social justice/acceptance.

When talking about the political economy of human rights, authors such as professor Samuel Moyn have provided a more intimate analysis of the nexus between human rights and inequality (MOYN, 2018). In his latest book, “Not Enough: Human Rights in an Unequal World”, Moyn is very critical of the capacity of human rights, in the context of neoliberalism

in its “most unfettered form” (MOYN, 2018), to provide distributive justice and to top-down a global system of economic and social inequality. In his view, the task is to “to argue and make room for two different imperatives of distribution – sufficiency and equality”, as “the ideal of material equality has lost out in our time” (MOYN, 2018, p. 3).

However, we fear that not enough attention has been given towards the challenges that the human right to a healthy environment might face in this context of growing global economic and social inequalities. Therefore, our main goal is to explore how the nexus between human rights and environmental protection may be weakened by the capitalist logic of constant economic growth and wealth accumulation (which does not translate in equal distribution) that constantly defies the demands for environmental justice.

The doctrine of ecosocialism was chosen as our main analytical tool because we believe it provides a more critical assessment of current literature on the human right to a healthy environment. When challenging the inequalities that are inherent to the capitalist mode of production, ecosocialists show how “the myth of growth has failed us [...] [and] the fragile ecological systems we depend on for survival” (WALL, 2010, p. 14), whilst pointing out alternatives to our current environmental crisis.

We intend to discuss as well how the countries in the Third World, with the focus being on Latin America, have come to grips or not with the right to a healthy environment. We shall investigate whether Latin American countries (with a special focus on the Brazilian experience) have embraced or not the discourse of a human right to a healthy environment, and if they have, what are the provisions they have developed so far in order to translate such right into practice.

As deeply discussed in the 2016 Global Forum on Environment and Economic Growth, despite the well-known link between economy and the environment, there is still a relative lack of tools to quantify both costs and benefits that might arise from environmental protection policies (OECD, 2016), which may pose a challenge to Third World countries still struggling to juggle the asymmetries of global economy, while environmental concerns may sometimes not rise to the occasion when 10 per cent of the world’s population still live on less than US\$1.90 a day (WORLD BANK, 2019).

In this case, we are not by any means trying to dismiss the importance of the recognition of a healthy environment as a human right, our contestation is regarding the possibility of this right being sold with a normative cosmopolitan label (RAO, 2010, p. 35-37), easily taking for granted both political and economic willingness of countries outside the Global North spectrum to have environmental issues at the heart of their policy-making strategies.

Our article is divided in a way in which we try first to draw upon more general questions regarding human rights and the environment, and later on we try to interpret such concerns being guided by the theoretical tools provided to us by ecosocialism and the category of “third worldness” (such as “great economic and social disparities, dependent development, and marginalization from the core of international society” [RAO, 2010, p. 29]).

First, we explore the idea of a human right to a healthy environment. Secondly, we summarily review the relation between human rights and Marxist thought. Thirdly, we try to find out what an ecosocialist approach to human rights and the environment would look like. Ultimately, we go on to analyse how countries in the Third World, those in Latin America more specifically (with the focus being on Brazil), have come to accept or not the discourse of a healthy environment as a human right.

2 The ongoing idea of a human right to a healthy environment

Despite the fact that human rights have had a turbulent journey in the history of its affirmation – being subjected to both “uses” and “misuses” and far from having a linear trajectory (MOYN, 2014) – the categories proposed by the Italian political philosopher Norberto Bobbio to analyze the path of human rights in Western historiography are quite accurate (BOBBIO, 2000, 1991). First, these rights were translated from metaphysical imaginaries (i.e. from the notions of natural rights/law) to constitutional statuses, mainly in European countries and in the United States during the 17th and 18th centuries, as they later have experienced considerable expansion from the first idea of “civil liberties” to other categories such as social and community rights, until its internationalization and alleged “universalization” in the post-Second World War period, inaugurating

what Bobbio called as an “Era of Rights” (*El Tiempo de los Derechos*) (BOBBIO, 1991).

Since the “inauguration” of such Era, the “list” of rights has grown to include different national and international demands regarding the protection of intrinsically varied human values/necessities: such as women’s rights (Grimshaw, Holmes and Lake 2001), children’s rights (HOLZSCHEITER, 2010), the human rights of older people (Martin, Rodríguez-Pinzón and Brown 2015), rights of migrants and refugees (CHOLEWINSKI; GUCHTENEIRE; PÉCOUD, 2009; ISLAM; BHUIYAN, 2013), LGBT+ rights (THORESON, 2014) and so forth.

One can say that the idea of humans being entitled to a clean and healthy environment might be inserted in this tendency in which Bobbio called as “specification” of rights (Bobbio 2000, p. 482-483). More than ever, the general and abstract claim that “[...] human beings are born free and equal in dignity and rights” (UN, 1948, Article 1)- as enshrined in Article 1st of the Universal Declaration on Human Rights – has proved to be insufficient, as the aspiration towards equality has shifted to the necessity of a substantive account as opposed to the mere formal interpretation on the right to equality (FREDMAN, 2016): because “even if equality before the law has been established, disadvantage persists, and this disadvantage tends to be concentrated in groups with a particular status, such as women, people with disabilities, ethnic minorities and others” (FREDMAN, 2016, p. 712-713).

This perception is particularly true when talking about the effects of environmental catastrophes on societies across the globe, as countries and peoples experience the effects of natural disasters, climate change and environmental degradation differently according to a variety of factors such as level of income, infrastructure, disaster preparedness, amongst others (AYSAN, 1993).

The correlation between human rights and the environment has been a subject of debate for decades. As pointed out by Boyd, “there has been a lively debate among scholars in the fields of human rights and environmental law about whether explicit legal recognition of the right to a healthy environment would provide tangible benefits” (BOYD, 2018, p. 17). Thus, the debate regarding the safeguard of a “clean”, “healthy” or “decent” environment has often focused on the fact of whether it constitutes or not

a human right.

Some authors defend that the right to a healthy environment is a derivative of the general human rights movement, mostly because “[...] a human rights perspective directly addresses environmental impacts on the life, health, private life, and property” (BOYLE, 2012, p. 613), therefore, it would be “an entitlement derived from other recognized rights” (WESTON; BOLLIER, 2013a, p. 33) that are firmly established in international human rights law and jurisprudence, as well in constitutional law. According to this view, environmental issues should not, therefore, be thought separately from issues of human rights protection:

It has been a well-documented fact that environmental degradation in environmental quality (such as from ambient concentration of pollutants and other activities and processes) can cause a violation of human rights. For example, the Office for High Commissioner for Human Rights (OHCHR) has investigated the varied effects of climate change on the enjoyment of human rights. The 2009 Report of the Human Rights Council analyses such an impact on several human rights, such as the right to life, and adequate housing; health, water and self-determination (FITZMAURICE, 2015, p. 220-221).

This idea was first defended and established in the 1972 “Stockholm Conference on Human Environment”, as the Declaration on Human Environment mentioned the necessity of “[...] an environment of a quality that permits a life of dignity and well-being” (UN, 1972, Principle 1), stating that every person has the right to live in an environment that provides him or her “the freedom, equality and adequate conditions of life” (UN, 1972, Principle 1). Consequently, this view constructs a human right to a healthy environment from the catalogue of already existing human rights (FITZMAURICE; MARSHALL, 2007).

However, as stated by Fitzmaurice and Marshall, there are many authors who disagree, as they believe that the right to a clean environment would not acquire the normativity it needs by simply being drawn from already established human rights (FITZMAURICE; MARSHALL, 2007). That is

the case for those who defend the necessity of a human right to a clean/healthy environment to be acknowledged as “as an entitlement autonomous unto itself” (WESTO; BOLLIER, 2013a, p. 33). Which means that the broader human rights language, in the view of some authors, would not be able, in itself, to make a sufficient claim for the protection of the environment:

One of the arguments for adopting a new substantive right is that, as Michael Anderson has explained, “established human rights standards approach environmental questions obliquely and, lacking precision, provide a clumsy basis for urgent environmental tasks” (1996: 8). He has argued on that basis that a specific right would be better suited to the challenge of protecting the environment [...] A substantive right to a good environment, it is argued, is necessary to address this shortfall in protection (LEWIS, 2018, p. 63-64).

In sum, one can say that the idea of humans possessing a right to a clean, healthy, good, decent or safe environment (there is no consensus surrounding the more adequate terminology) as a subjective right, has yet to achieve a more robust philosophical and practical framework in order to unleash its full potentials (LEWIS, 2018, p. 61 henceforth).

Therefore, despite the right to a clean and healthy environment being recognized in international law, deriving from different sources such as soft or customary law (RODRÍGUEZ-GARAVITO, 2018), and being encrypted in the constitutional law of many countries as well (BOYD, 2018), whether as a right “unto itself” or as a derivative from other human rights, there are still relevant gaps and remaining issues awaiting for discussion and resolution, taking into account that “in the last decade or so [...] we have watched nature’s defilement assume systemic dimensions with almost no legal intervention whatsoever” (WESTO; BOLLIER, 2013b, p. 117), in different parts of the globe.

With that said, further on, we intend to explore how the persistence of barriers related to the fulfilment of the right to a healthy environment could be indeed a direct or indirect result of the expansion of global capitalist

relations, utilizing both Marxist approaches to human rights more generally and the Ecosocialist thought as our theoretical basis.

3 Human rights and the marxist thought

The intent of this section is not to revisit the writings of Marx himself in order to establish the nexus between early Marxist thought and its critique to the liberal doctrine of human rights, a lot of important works and discussions have already been done on such topic. Our goal is to capture the spirit of what Darren J. O’Byrne (2019, p. 1) has recently pointed out as advocacy “[...] for both human rights and Marxian-informed social theory”. That suggests a broader reading on the reality of human rights through the contributions made not only by Marx but by those who were inspired by Marxist sociological theory and have drawn from that their narrative on current insufficiencies arising from the hegemonic liberal discourse on human rights. Such “Marxian-informed” views on human rights might provide us with theoretical tools that are closer to Ecosocialist claims, as we intend to argue later on.

The discourse on Ecosocialism has, in our perception, not focused quite enough on the question of rights, maybe because some authors might reject the rights-talk based on a pre-assumption that it may undermine their fight for environmental justice. By providing a “cross-fertilization” between the rights-talk and the Ecosocialist claims, we might be able to reach a rights-oriented critique to both the destruction of the environment and the inequalities inherent to the capitalist mode of production.

The question of whether or not Marx was a human rights advocate or if at the very least he made a case for human rights to uphold some kind of validity is not an easy one. Starting from Marx closest writings on the subject, undoubtedly the “On the Jewish Question” essay (BAUER, 1844), authors both confirm and deny Marx engaging in human rights defence. There are those who believe that Marxist thought and human rights are not only distinct but incompatible (KOLAKOWSKI, 1983). Whilst there are others who make a strong case for a Marxist approach to human rights, focusing especially on the task of political emancipation (MASSINI, 1986).

We would probably find a dead-end if we followed the first road,

that is why our efforts should be directed towards the second path. Which means we believe that a Marxist-informed human rights approach is able to denounce the inequalities that arise from a class-based society and how such inequalities undermine the task of the rights agenda (FASENFEST, 2016). Ultimately, “Marxism provides the language of and mechanisms for resistance to neoliberal agendas that strip human rights, and promotes common cause with all who struggle for human rights” (FASENFEST, 2016, p. 3). On that matter, O’Byrne (2019) has provided a robust defence of the potentialities that Marxism has when included as a contributor to the general theory of human rights:

[Marxism is able to]

1 – Provide a critique of the bourgeois, individualist nature of the dominant liberal tradition in human rights theory (and thus demonstrate the reality of alternative conceptualizations of rights); 2 – As the basis of that alternative conceptualization, foreground economic and social rights that reflect basic human needs; 3 – Promote the struggle for rights as aspirational, i.e. as a counter-hegemonic strategy; 4 – Provide a theoretical framework within the sociology of human rights that understands the relationship between human rights abuses [...] and the protection of capitalist interests (O’BYRNE, 2019, p. 2).

From such assertions, we infer two basic assumptions regarding a Marxist-informed approach to the human right to a healthy environment. First, we need to recognize that even though this right has been acknowledged by international organizations and courts, as it has also been enshrined in constitutional texts, it does not mean that the fight for human and environmental rights is over. Professor Herrera Flores (2008) defends that the Law is not going to be born and will not work on its own, that is, legal norms, and rights in general, serve as procedures, as means, and will only be able to fulfil a function more in line with social reality if we put them into operation. Flores (2008) also reminds us that rights alone cannot overcome the inequalities arising from the globalization of the capitalist rationality, which demands bottom-up social action (*acciones*

sociales “desde abajo”) in order to tackle systematic inequalities which pose a threat to the full realization of human (and environmental) rights in the contemporary world.

Especially in environmental causes, the call for collective action and struggle towards the translation of formally recognized environmental rights into social reality is one of great importance. The role of national and international NGOs, as well as unions and advocacy networks, has proven to be not only necessary but essential to the advancement of environmental justice agendas: as “there is a growing emphasis on governance as a critical aspect of environmental protection which calls for active and vibrant participation of civil society” (AHMAD, 2018, p. 16).

Secondly, environmentalists, as well as environmental and human rights lawyers and advocates, must recognize that, in some cases (if not in most of them), violations to the human right to a healthy environment take place in order to protect or advance capitalist interests. The link between capitalist growth and environmental degradation represents nothing new under the sun, however, many authors believe that changes within the global capitalist system are able to solve the environmental problems humanity face today and those we may face in the future.

That is the case of Newell and Paterson, who believe in a “Climate Capitalism”, i.e., “a model which squares capitalism’s need for continual economic growth with substantial shifts away from carbon-based industrial development” (NEWELL; PATERSON, 2010, p. 1). Meanwhile, authors such as Park defend that in the context of neoliberal capitalism and cost-benefit analysis, mitigation as an investment does not always offer a precise, quantifiable return (PARK, 2015). According to him, “these two goals – economic growth and environmental sustainability – are at irreconcilable odds” (PARK, 2015, p. 195).

This view is also endured by McDuff (2019), who adverts that “police tweaks”, such as carbon tax, won’t be able, in a long-term point of view, to vanish the perils of human-induced climate change and the consequences of global warming. This second group of authors are more aligned with a Marxist approach to the human right to a healthy environment. In the Economic Theory, there is also a growing movement of “radical economists” who argue for the recognition of the intrinsic destructive nature of capitalism regarding the environment:

For radical economists many of the root causes of social and environmental problems reside in the nature of the capitalist system itself, driven by the need to accumulate capital and the class-class based nature of the capitalist system. Thus, while progressive politics can alleviate some of the ills caused by the capitalist system, they cannot abolish these injustices (FISHER, 2014, p. 7).

Ultimately, anyone involved in daily-based environment protection actions, as well as academicians and legal scholars involved with human and environmental rights issues, have to acknowledge that the capitalist system bears a great amount of responsibility regarding contemporary ecological problems: as “[...] many environmentalists admit that the way capitalism is currently working is a major cause of ecological destruction” (MAGDOFF, 2011). Therefore, we believe that a more robust defence of a human right to a healthy environment should behold such right as a “counter-hegemonic strategy” (O’BYRN, 2019, p. 2) that is based in essentially Marxian-informed social and rights theory. Such view of human and environmental rights is totally compatible with ecosocialist claims and should, therefore, be taken into account by ecosocialist theorists who, from our point of view, have yet to come to grips with the general human rights-talk. Further on we intend to provide such theoretical crossover.

4 An ecosocialist approach to human rights & the environment

Ecosocialism is, summarily, an attempt to revisit the political economy of Marx, and the socialist experience at some level, in order to insert environmental concerns in the heart of the Marxist political, economic and sociological theory. Michael Lowy has presented in his book “*Écosocialisme: L’alternative radicale à la catastrophe écologique capitaliste*”, what is perhaps the one of most coherent theoretical defences of Ecosocialism, which is, in essence, “*un courant politique fondé sur une constatation essentielle: la sauvegarde des équilibres écologiques de la planète, la préservation d’un environnement favorable aux espèces vivantes [...] sont incompatibles avec la logique expansive et destructrice du système*”

capitaliste” (LOWY, 2011, p. 7). And he goes on to advert that traditional Marxist ideas of productive forces (*forces productives*) and the progress of history carry also a destructive logic of nature domination, that is the reason why he considers that such ideas need constant revisions by Marxists in order to create a different concept of progress which is closer to Ecological claims (LOWY, 2011).

Even though Marx himself was worried about the way modern (capitalist) agriculture was exploiting the soil and have shown these concerns on several passages in Volume I and III of the Capital (SAITO, 2017, p. 209-213), Ecosocialists claim that “nature had been broadly excluded from earlier generations of socialist thought [...]” (KOVEL, 2008). Therefore, the ultimate claim of Ecosocialists is to create a space of convergence between ecological movements and a renewed Marxism (QUERIDO, 2013). In this sense, neither traditional Marxist thought nor political ecology alone are able to find solutions for the challenges that the contemporary capitalist system poses on the environment. Political ecology, according to Lowy, focuses on the illusion of “clean” capitalism, while traditional Marxian political economy didn’t completely abandon the logic of productivism (QUERIDO, 2013). The only way out is then Ecosocialism, or, an Ecocatastrophe, as pointed out by Schwartzman (2009).

Therefore, one might deduce that for Ecosocialists, the human right to a healthy environment – as a result of the current ecological crisis sponsored by capitalism – is nothing but a sweet dream. And that is the case if we buy such right with a classic, liberal cosmopolitan label, but not with if we imagine the human right to a healthy environment as we proposed in the previous session of this article. Envisioning the human right to a healthy environment from a Marxian-informed point of view, with a focus on social actions/struggle, can indeed help Ecosocialists in their claim for radical changes in the contemporary global economy.

But are Ecosocialist activists ready to do so? If Ecosocialism aims “[...] a non-hierarchical society respectful of ecological systems” (JOHNS; KOVEL; LOWY, 2003, p. 128), it means we no longer need the rights-talk? It can simply be left behind? Rights were thought in the first place to limit the power of Government over its citizens and to guarantee equality before the Law, but in such non-hierarchical society respectful of ecological systems, we would no longer be in need of equality rights or

environmental rights? Our answer is that one cannot easily find the answers for that in the current Ecosocialist literature. Ecosocialism still lacks theoretical foundations to discuss issues of human rights and global justice which may still persist in an Ecosocialist future.

As argued before, human and environmental rights are not inconsistent with the Ecosocialist thought. If authors had spent time and effort to rethink traditional Marxist political economy as well as political ecology, why can't they do the same regarding human rights? If a Marxist theory of rights, as put by O'Byrne (2019), lies on a social constructionist approach, of rights being not a list of proscribed entitlements, but a representation of socially constructed demands for political emancipation and material conditions of existence, Ecosocialists should acknowledge that the struggle for rights does not end with the achievement of a global Ecosocialist experience. Rights represent therefore a permanent language of resistance, that cannot, by any means, be abandoned nor mined at any time, at the risk of repeating the totalitarian experiences of the 20th century.

David Pepper (1993) is perhaps one of the few Ecosocialists who draw an intensive defence of the need for bridging Ecosocialism to the ideals of social justice and human rights, as he says: "I am, anthropocentric enough to insist that nature's rights (biological egalitarianism) are meaningless without human rights (socialism). Eco-socialism says that we should proceed to ecology from social justice and not the other way around" (PEPPER, 1993, p. 3). From our point of view, Pepper's conceptions should be embedded in the larger Ecosocialist movement more than ever, alongside a robust theory of rights, so Ecosocialism can indeed be built upon a humanist ethos.

5 Where do the third world countries stand with environmental protection? Hints from Brazil and Latin America

Acknowledging the barriers posed by the actual stage of global capitalism to the realization of a human right to a healthy environment requires also the acknowledgement of the existence of an unequal international economic order. As Niheer Dasandi (2013) has suggested, differently from the dominant development literature focused on poverty measurement

around the world – which focus mainly on domestic factors – a structural analysis show that there are inequalities in the structure of the international system itself, thus, the international economic order has great impact on how poverty is distributed across the globe. At the World Economic Forum meeting in Davos in January 2017, many International Organizations, such as Oxfam, pointed out the need to discuss and find solutions for a growing –scale of inequality in the global political economy (PHILLIPS, 2017).

But how is poverty related to environmental protection? Well, many poor, low-income countries, are still either cautious or sceptical about the capability of concepts such as “green growth” or “sustainable development” in delivering poverty reduction, higher social welfare and job creation (OECD, 2012), which are often the main goals for emerging economies. According to the OECD (2012), one of the reasons for that is the way in which green growth policies are being discussed, as the focus on low-carbon and high-technology does not always help address poverty and other development priorities (CORDERO; ROTH; SILVA, 2005).

In fact, in developing countries, there are still competing views of whether or not sustainable development policies can actually guarantee economic growth and wealth distribution (CORDERO; ROTH; SILVA, 2005). In Latin America, especially, where most countries depend upon agricultural and industrial production, the environment is sometimes simply viewed as a commodity, which seriously undermines environmental protection policies and puts crucial natural resources in danger.

That is why the category “Third World” is important in our analysis. The idea of a Third World – as originally proposed from the tripartite division of the world during the Cold War – as a project to denounce global hierarchical structures, is still in fashion, even though the term has lost most of its attractiveness (RAO, 2010, p. 1-34). By putting the term into use again, scholars and activists try to show that despite the shifting in terminology (to “developing” or “emerging” countries), the inequalities of the global capitalist system have not vanished, and Third World countries still struggle with injustices such as great economic and social disparities, dependent development, and marginalization from the core of international society (RAO, 2010). This large view of persistent economic inequalities in the contemporary global economy has led the countries of Latin America, in the 1992 Rio Conference (also known as the Earth Summit), to adopt

among the “Rio Principles”, a principle of “common but differentiated responsibilities” regarding environmental policies.

Therefore, one can say that Latin American countries have acknowledged that the protection of the environment is the duty of humankind, from a holistic point of view, but have argued that such duty translates into different levels of responsibilities. However, there are authors who point out that since the Earth Summit, Latin American countries have been too vague or not straightforward enough in the task of defining what is their level of responsibility regarding the protection of the environment, even though a lot of them have adopted “Environmental Framework Laws” since then (CORDERO; ROTH; SILVA, 2005).

Despite these challenges, we have to consider that many Latin American countries have engaged considerably in the attempt to create norms and standards related to general environmental protection. Erika Castro-Buitrago and Felipe Valencia (2018) defend that, since the Earth Summit (1992), and the Rio+20 (2012), Latin American countries have sought to establish minimum standards of environmental protection.

While regarding the recognition of the environment as a human right, the Inter-American Court of Human Rights has issued a landmark opinion on the matter. The Advisory Opinion responded to a request that the Republic of Colombia submitted on 2016, in which Colombia asked the Court if a State could be held accountable for human rights violations – under the American Convention of Human Rights (1969) – due to environmental harms emanating from that State (FERIA-TINTA; MILNES, 2016, p. 2-3).

In its landmark opinion on the matter, the Court has acknowledged the existence of a human right to a healthy environment as an autonomous right, as well as interrelated to other human rights, including those enshrined in the American Convention (FERIA-TINTA; MILNES, 2016, p. 5). Therefore, one has to recognize that at least the “talk” of human environmental rights in Latin America has indeed been developed in the region.

However, recent turns in the Latin American political scenario has led to a more “conservative” if not retrogressive approach to environmental protection policies, which has the potential to seriously undermine

efforts to implement the human right to a healthy environment in the region, mainly due to the growth of unrestricted neoliberal agendas in Latin America nowadays. Our main focus shall be on Brazil, due to the fact that since 2016 – after the *Coup D'état* which deposed ex-president Dilma Roussef from office – the country has witnessed an emerging conservative movement mixed with ultraliberal policies which have resulted in the reduction of social rights, social services and in an never-before-seen assault on the environment (SANTANA; FERNANDEZ; FERREIRA, 2018; DAMASIO, 2019).

Since the recently elected Brazilian president Jair Bolsonaro has assumed office, Amazon rainforest protections have been mined (PHILLIPS, 2019), as the Amazon was being in May of 2019, deforested in 0,19 km² per hour (BORGES, 2019). The election of Bolsonaro represented the victory of ultraliberal capitalist interests over environmental protection causes, a fact which becomes clearer as the Government goes on to destroy environmental protection policies, despite the large environmental protection legislation Brazil possess (FIORILLO, 2013). Our president has even been publicly called the “Exterminator of the future”, as he has worked towards the deconstruction of major Brazilian environmental policies (KAISER, 2019).

In a Conference held by eight Brazilian former Ministers of the Environment, which took place at the University of São Paulo, the former Ministers warned that Bolsonaro’s government was systematically aiming to destroy Brazil’s environmental protection policies: “The ex-ministers highlighted the ‘depletion’ of the environment ministry’s powers, including stripping it of jurisdiction over the country’s water agency and forestry service and also eliminating three senior officials, including the secretary on climate change” (KAISER, 2019, on-line).

The president has also issued a Legislative Decree which reduced from 96 to 23 the number of members of the National Council for the Environment (CONAMA), a public organ which has been crucial to the democratization of environmental policy-making in the country since its foundation back in 1981 (GORDILHO; OLIVEIRA, 2014).

Just recently, Brazil has been named and shamed by the international community for letting the Amazon rainforest burn down for weeks in a roll (Bramwell 2019), while the president was in complete denial of the

fires and has rejected the \$20 million in foreign aid to help fight fires in the Amazon (KOTTASOVÁ *et al.*, 2019), while at the same time neither G7 or the EU have effectively sanctioned Brazil for its actions, as they have only threatened to do so.

The Brazilian case contributes to enhancing the idea that “*there is little evidence [...] that the Latin American environment is better protected under neoliberal policies*” (LIVERMAN; VILAS, 2006, p. 356, our italics). Thus, the future of environmental protection policies, and subsequently, the future of the human right to a healthy environment in Latin America, could be at great risk of extinction in face of neoliberal and populist policies in their most unfettered forms. Brazil is one great example of how, independently from constitutional and international legal provisions, the assault of the environment can be explicitly engineered in order to advance capitalist interests as well as the private sector demands, as Bolsonaro has demonstrated how inclined his government agenda is towards the agribusiness lobby.

Therefore, both legal scholars and ecosocialist activists, acting on the field of human environmental rights protection, should be discussing how to radically change the actual structure of global economy while at the same time taking into account the contemporary experiences of Third World countries, which for many reasons have chosen not to put environmental protection causes in the heart of their policy-making strategies.

How is Ecosocialism going to be appealing in such environments dominated by ultraliberal elites who have almost taken over the power of Government and could not care less for the environment? How are ecosocialists going to make sure that their fight for environmental justice is also a fight for social justice and human rights? These are questions we leave for further research on the matter, as our analysis served, from our point of view, as a modest contribution aimed to provoke more critical assessments of the human right to a healthy environment, to both human rights and ecosocialist scholars.

6 Conclusions

Our main goal with this research was to explore how the nexus between human rights and environmental protection may be weakened by the

capitalist logic of constant economic growth and wealth accumulation, which constantly defies the demands for environmental justice. The doctrine of ecosocialism was chosen as our main analytical tool because we believed it could provide a more critical assessment of current literature on the human right to a healthy environment.

First, we tried to explore the idea of a human right to a healthy environment. As argued, the human right to a healthy environment, both as an ‘autonomous right unto itself’ as well as a derivative from previously established human rights, has been largely acknowledged in international law as well as in many constitutions across the globe. However, one can say that the idea of humans possessing a right to a clean and healthy environment, as a subjective right, has yet to achieve a more robust philosophical and practical framework in order to unleash its full potentials. Therefore, despite the right being indeed recognized in its existence and validity, there are still relevant gaps and remaining issues waiting for discussion and resolution.

Secondly, we summarily reviewed the relationship between human rights and Marxist thought. We argued that, ultimately, anyone involved in daily-based environment protection actions, as well as academicians and legal scholars involved with human and environmental rights issues, have to acknowledge that the capitalist system bears a great amount of responsibility regarding contemporary ecological problems.

Therefore, we believe that a more robust defence of a human right to a healthy environment should behold such right as a counter-hegemonic strategy, that is based on essentially Marxian-informed social and rights theory. Such view of human and environmental rights is totally compatible with ecosocialist claims and should, therefore, be taken into account by ecosocialist theorists who, from our point of view, have yet to come to grips with the general human rights-talk.

Ultimately, we tried to demonstrate that, in the face of the current ecological crisis sponsored by capitalism, many might think of the human right to a healthy environment as nothing but a sweet dream. And that is the case if we buy such right with a classic, liberal cosmopolitan label, but not with if we imagine the human right to a healthy environment as we proposed during the construction of our article.

Envisioning the human right to a healthy environment from a Marxian-informed point of view, with a focus on social actions/struggle, can indeed help Ecosocialists in their claim for radical changes in the contemporary global economy. As argued before, human and environmental rights are not inconsistent with the Ecosocialist thought. However, Ecosocialist activists and scholars have yet to engage with the rights-talk, as they have partially failed to do so thus far.

We intended to discuss as well how the countries in the Third World, with the focus being on Latin America (mainly Brazil), have come to grips or not with the right to a healthy environment. Our main findings were that, despite the fact that since the Earth Summit (1992) and the Rio +20 (2012) Latin American countries have sought to establish minimum standards of environmental protection in the region.

However, recent turns in the Latin American political scenario has led to a more “conservative” if not retrogressive approach to environmental action, which has the potential to seriously undermine efforts to implement the human right to a healthy environment in Latin America. In Brazil, since the election of Jair Bolsonaro, ultraliberal capitalist interests have taken over environmental causes, a fact which becomes clearer as the Government goes on to destroy environmental policies in order to satisfy the interests of the agribusiness elite.

Ultimately, we argue that the future of environmental protection policies, and subsequently, the future of the human right to a healthy environment in Latin America, could be at great risk of extinction in face of neoliberal and populist agendas.

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