

Sustainable Environmental Management: A Systematic Review in Latin America

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Abstract

Generating administrative and legal processes from environmental management is one of the premises contained in the Millennium Sustainable Development Goals. The purpose of this research is to analyze the state of knowledge of sustainable environmental management, through a systematic normative review in Latin America, for the period 2020-2021. The methodology was referred to conduct a bibliometric study through the Scopus database to systematize the state of knowledge of environmental management for sustainable development. The results of the scientific evidence on environmental management are that in Latin America there are legal efforts to incorporate the environmental issue, limited use of Agenda 2030 as objectives that should guide management and particularly the decision-making process, and little use of technology as a resource to resolve environmental conflicts. In conclusion, to achieve sustainable environmental management, the systematization of legal regulatory frameworks is urgent, and it is essential to strengthening sustainability with a humanistic and environmental vision of management.

Keywords: Environmental management, Sustainability, Agenda 2030, Rights, Human Being, Latin America, Human Being, Latin America.

1. Introduction

The transformations currently taking place in the environment driven by globalization processes, the movement toward a human-oriented environment and nature, its integral preservation, and increasingly complex legal regulations by the State (United Nations Educational, Scientific, and Cultural Organization, 2017), have made it necessary to change the regulatory frameworks of countries as strategies to adapt to the increasingly specialized ways of relating man to nature seeking sustainable differentiation. From this new perspective, respect, knowledge, and protection of the rights of nature in political and social practices related to the environment and natural resources are the approaches of the 2030 agenda, which contain the sustainable development goals of this millennium.

The 2030 Agenda, with its 17 Sustainable Development Goals (SDGs), 169 targets, and 232 indicators, was approved in September 2015; it is considered a key instrument for environmental management (Li, 2019), and presents an ambitious vision of sustainable development and integrates its economic, social and environmental dimensions (United Nations, 2015). It establishes transformative guidelines that place equality and dignity of people at the center, and calls for a change in the style of development, respecting the environment. It is a universal commitment acquired by both developed and growing countries to design public policies based on the objectives, within the framework of a strengthened global partnership, which takes into account the means of implementation to carry out environmental management, disaster prevention due to extreme natural events, as well as mitigation

and adaptation to climate change (Economic Commission for Latin America and the Caribbean, 2019). However, it is worth highlighting a trend of knowledge in the life cycle of the implementation and use of the 2030 Agenda, guidelines that result in a certain saturation or stagnation to incorporate them as part of the management in some countries (Campo-Tertera, 2019).

The implementation and certification of the 2030 Agenda by organizations play a key role in the business strategies to be adopted. The purpose of these objectives is not to refer to the fulfillment of an objective or a particular result; the agenda establishes voluntary guidelines to systematize and formalize the daily activities of the organization in a series of procedures to achieve continuous improvement in those areas in which they are focused, i.e., that they are incorporated into management in the same way as the legal guidelines are adopted. The most urgent thing is that the incorporation of the objectives is present in the organizations, even if one is more predominant than the other, thus determining the priority on the part of the organization to adopt the agenda as a standard (Martínez, 2017).

Environmental management and its promotion have become a worldwide phenomenon recognized by a diversity of actors including the State, companies, government, NGOs, and citizens, particularly organizations regardless of their size, sector or geographic location must be dedicated to its applicability, so that these objectives are directed to its fulfillment, bringing with them numerous potential benefits related to sustainability, efficiency, effectiveness, competitiveness, economic, and technological growth (Lalama and Bravo, 2019).

There are great uncertainties regarding the applicability of environmental management to direct legal, administrative, political, strategic, and technological elements (Vives and Peinado, 2011). Some of the features that stand out for such purposes derive from the absence of research on the methodological demonstration that would support legal efforts to support the systematization of management and the consideration of nature as a subject of rights, the lack of regulatory legal frameworks that provide particular guidelines for decision making, organization, and control in the field of

environmental management, and the lack of a legal framework that would provide specific guidelines for decision making, organization, and control in the field of environmental management (Gallo et al., 2021).

Different interpretations through the production of theoretical knowledge, and description of experiences, have been overcome through different international studies, mainly those related to the environment and sustainability. The reviews carried out in the works published mainly studies in Latin America are located in Ecuador, Peru, Mexico, and Colombia (Guillén, 2020).

In general terms, the documentary reviews carried out from the research show a high satisfaction in studying environmental management from the objectives of sustainable development and the incorporation of the environment into the legal framework. Because environmental management from both decision-making and control is proposed as a possible mode of management organization, sustainable environmental management is made possible through the 2030 agenda. However, little is known about the regulatory frameworks of environmental management (M. and Cajigas, 2019).

Taking into account the above described, it is necessary to pose the following research question: What is the scientific evidence on sustainable environmental management from a systematic review in Latin America in the year 2020- 2021, the theoretical constructs will be sufficient to generate references in that the theoretical justification will contribute to the deepening of existing legal arguments, especially in environmental management from the categories of analysis under study and transfer the knowledge produced to society for sustainable environmental management in time.

The purpose of this article is to analyze the state of knowledge of sustainable environmental management, through a systematic review in Latin America, for the period 2020-2021, for this, a systematic review of the research is carried out through a bibliometric analysis, developed in that period of study, then an analytical matrix containing the research method, results, and conclusions of the research that support this study was carried out. This research is generated from the

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2. Method

From this research, a systematic review of the scientific literature related to the analysis of the state of knowledge of sustainable environmental management was carried out through a systematic review in Latin America. The bibliographic search was carried out from April 2020 to December 2021, through the Scopus databases. Articles were sought in which the terms were in the fields related to Environmental Management and sustainability. Diversity of results was found that volume is a limitation in the research and the criterion of both terms in the title of the research and the keywords was assumed, a great sample and contextual limitation was found since in most cases they focused on particular studies from the countries of the region. For the analysis of the results, a qualitative methodology was used to identify the characteristic features of the object of the research.

3. Results

3.1. Sustainable environmental management

From the first conceptualizations of environmental management, there is a need to conceptualize the various actions and decisions made by key actors in the public, private, and social sectors in this regard. The environmental conflicts that arise in this respect are diverse, improving the quality of products and processes in general from the collective standard of living are some of the orientations that such decisions and actions on the environment are carried out by the State, and the legal regulatory frameworks are the main effort generated.

For this reason, to study the legal configuration of the right to a healthy environment, it is necessary to analyze it from the double perspective of its doctrinal development and its legal regulation at the constitutional level. A

prior, essential step is to make some conceptual clarifications on the expression's environment and healthy environment since they constitute the basis of the aforementioned right. For the concept of environment, Jesús Jordano Fraga considers that in a juridical sense “it is a polyvalent notion; there is no unitary construction of the concept, hence it is possible to formulate several meanings from the legally relevant point of view: as a protected collective legal good or protected legitimate interest formed by several elements; as a right and duty, thus the right to enjoy a healthy environment incorporates the duty to protect it and; as a definer of competences of the different public administrations” (Jordano, 1995).

A different opinion is held by Mateo (1977), who considers that the concept of the environment “includes those natural elements of common ownership and dynamic characteristics; in short, water, air, basic vehicles of transmission, support and essential factors in the existence of man on Earth (Ordoñez et al., 2020). In the concept of environment, the natural elements that constitute the environment on which the civilization and culture of man these days are based are expanded, in this sense, elements that account for the concept are pointed out, from the conservation of nature in its various manifestations, to land management, through the protection of the cultural heritage of peoples, the maintenance of a certain level of collective comfort” (Vega, 2014; Escribano et al., 1980).

Starting from the definition of environmental management, Estevan (1994), conceptualizes it as “A set of actions that allow achieving the maximum rationality in the decision-making process related to the conservation, defense, protection, and improvement of the environment, through coordinated interdisciplinary information” (p. 45). This author incorporates citizen participation as a binding issue to carry out environmental management. Environmental management is built based on environmental actions and management tools, the actions interact with each other to achieve a clearly defined objective based on environmental protection.

In this context of diverse definitions and conceptions about what is or should be considered as the environment, the human right

to live in a healthy environment is inserted, outlined in the international instruments on the subject, and accepted with different names and characteristics in different constitutions.

3.2. Legal configuration of the right to a healthy environment

In today's globalized and interdependent world, third-generation or solidarity rights can only be optimally realized based on internal cooperation between national governments, regional, and local authorities, and States at the international level; hence, their presence and universal social utility require the concentration of efforts of every person as an individual and States, institutions, public and private organizations, above all, the collective known as the international community. The recognition of third-generation rights is framed in the current period, responds to the reality that is lived, and transcends the individual sphere to move to the human species as a whole; this dimension exceeds any geopolitical limitation and is located both at the national and international level (Cruel and Vernaza, 2022).

Following this trend, most of the constitutional texts of various geographic latitudes, especially after the second half of the 20th century, have progressively incorporated the recognition of the human right to a healthy environment. At the international level, this right has also received notable legal recognition, with the existence of a considerable number of supranational instruments on the subject in which it receives an increasingly specific consecration in international law, being expressly recognized for the first time in the Stockholm Declaration in 1972 (UN, 1987).

The Declaration was adopted at the Stockholm Conference, "where for the first time the importance of the environment as a fundamental element for the respect of the rights of the human being is discussed." That fact focused international attention on environmental issues, especially those related to environmental degradation and transboundary pollution; the latter concept was very important, as it points to the fact that pollution does not recognize political or geographical boundaries and affects countries, regions, and peoples beyond its point of origin (Blengio, 2013).

Among the most important principles recognized, intergenerational responsibility, sustainable development, the duty to use education and research as instruments of environmental policy, the right to environmental information, and the duty to conserve the environment deserve to be highlighted (Fuentes, 2018; Martínez, 2021).

Subsequently, at the Earth Summit held in Rio de Janeiro in 1992, "it was demonstrated that the progress made between 1972 and 1992 had been limited...since powerful economic and geopolitical interests had prevented and would continue to prevent progress in this direction. Despite these obstacles, there was international recognition of the fact that environmental protection and natural resource management must be integrated into the socioeconomic issues of poverty and development while reaffirming the right of human beings to "a healthy and productive life in harmony with nature" (Philipp, 2020).

This idea of living in harmony with nature was taken up in the definition of the term sustainable development by the Brundtland Commission in 1987, as development that meets the needs of the present without compromising the ability of future generations to meet their own needs (UN, 1987). On the other hand, the concept was designed to satisfy the requirements of the advocates of economic development, as well as the demands of those who are primarily interested in environmental conservation and the sustainable and balanced use of natural resources (UN, 1987).

Another international instrument on environmental protection is the Kyoto Protocol, agreed in 1997 under the auspices of the UN, to combat climate change. Its objective was for industrialized countries to gradually reduce greenhouse gas emissions by an average of 5.2% compared to 1990 levels (UN, 1997).

The culminating point in this evolution, at the universal level, was the Final Document of the United Nations Conference on Sustainable Development, known as Rio+20, which reaffirmed the commitments and will of the previous instruments, while renewing the political commitment necessary for their fulfillment, insisting on the doctrine of "common but differentiated responsibilities", to emphasize the idea that those who pollute or

damage the environment and nature the most should pay the most, regardless of the universal commitment in favor of the environment (Babb, 2012).

An instrument of lesser scope due to its regional character, but of greater symbolic transcendence due to its contentious and defiant nature, is the Universal Declaration of the Rights of Mother Earth, which goes a step further in the traditional protection of the environment and natural resources, by considering that the earth itself is a living being, which possesses “inherent” and inalienable rights, as they derive from the same source of existence, and as such must be protected.

The above account, which only aims to highlight some fundamental milestones in the protection of the environment and nature and the human right to a healthy environment, allows affirming that unlike the first and second generation rights, which were first developed at the theoretical level and in the constitutions and domestic legislation of the States and then moved to the international level, the right to a healthy environment was first developed through international instruments and then gradually incorporated into the domestic legal order of the States (Blengio, 2013).

Latin American Context of sustainable environmental management

Many Latin American countries have incorporated elements of the right to a healthy and ecologically balanced environment into their current constitutional frameworks, particularly Colombia, Paraguay, Venezuela, and Bolivia. As can be seen, some of the constitutions of the countries of the continent that have come into force in the last 30 years recognize the right of people to live in a healthy environment, up to the right to live in a healthy and ecologically balanced environment, which essentially corresponds to the requirements of international instruments, binding or not, aimed at protecting the environment as an obligation shared by States, citizens, and the international community.

However, without underestimating the importance of declarations of principles, constitutional provisions, or the goodwill of all

the institutions and citizens involved, the question arises as to what constitutes this right to a healthy environment, which can be qualified as a human or fundamental right. It is also pertinent to ask about its relationship with other basic human rights, such as the right to life, health, access to water, or the satisfaction of other material needs for which natural resources must necessarily be used as a means, which may eventually affect the environment or the right to live in a healthy and ecologically balanced environment (Montes de Oca Rojas, 2020).

Concerning the two questions, it should be pointed out that the right to a healthy environment is one of those that “is arousing the greatest concern in the legal world, not only because of the difficulty that has resulted in its legal framework, but also because based on it, the quality of human life in the present and the future is reflected on, and a quality and sustainable environmental management must be available.

The difficulties stem mainly, as in the case of all human rights based on the principle of solidarity, from the high degree of indeterminacy of their content, as well as from the transboundary nature of their scope of application and the diffuse nature of the active subject, i.e., the holder of the recognized right, to whom is attributed the power to claim for its recognition, protection, and guarantee in the face of eventual violations.

The configuration of a right to live in a healthy and ecologically balanced environment depends, to a large extent, on defining what a healthy environment is or, in other words, on drawing the dividing lines between what must be understood as a healthy environment and the point where this quality deteriorates and, therefore, the power of any person to claim for the violation of his right is born.

What variables should be used to draw the dividing lines? Certainly, this is not a task for legal science in general, or environmental law or legislation in particular, but mainly for the natural sciences; from the point of view of legal technique, the violation of the right to a healthy environment is measured fundamentally by its effects on the health or quality of life of human beings, or by the consequences of human activities on the degradation of the

environment, which would then affect the environmental balance and could give rise to claims for violation of the subjective right.

For this reason, some authors deny that it is a fully configured right, autonomous or independent from other long-standing human rights. This is considered, for example (Borràs, 2014), for whom “the healthy environment is inherent to the dignity of every person and is necessarily linked to the guarantee of other human rights, including, in particular, the right to life and human development”; it would be a right that is still “in the process of configuration” that comes to reinforce and extend the meaning of already guaranteed rights or entitlements, such as the right to life and the right to development (Borràs, 2014).

Other authors, reinforcing the previous idea, consider without further ado that the right to a healthy and ecologically balanced environment is not a novelty, but derives from the content of other previously recognized rights: “the declaration or legal recognition independently or autonomously of the right to live in a healthy environment is the result of the need to preserve life on the planet because of the innumerable aggressions to the ecosystem and the visible negative consequences of the process of destruction of life in the world” (Blengio, 2013).

According to this conception, the human right to live in a healthy environment would be a projection of the right to live, or specifically of the right to life and health. If this were to be accepted literally, it would have to be admitted that in reality, the aforementioned right is a combination of elements inherent to first- and second-generation rights, both in terms of the attitude of the subjects and the individual and collective recognition of the active subject, who can demand that the State both refrain from actions that degrade the environment, and take positive, material, and concrete actions to repair the damage caused (Borràs, 2014).

In accepting the thesis of the lack of exhaustive legal configuration of the right to a healthy environment, as well as the integration of its content from other basic rights, it must be considered that the violation of the referred right, or the proper sphere of protection of human beings, must be determined from the effects of the degradation of the environment

on those basic rights that integrate the human right to live in a healthy environment.

Thus, the violation of the right to a healthy environment could be manifest in cases of violations of the right to life, health, food, or the satisfaction of other basic needs, when a cause-and-effect relationship can be established between the violation of such rights and the degradation of the environment, and where the cause can be attributed to the actions or omissions of a particular subject, whether natural or juridical, public or private.

In other words, if air contamination as a consequence of pollution or the emission of gases with harmful effects on health causes damage to people, the action arises for them to sue those responsible or claim before the authorities for the violation of their right to a healthy environment, manifested in this case through the violation of their right to health, or their right to life.

Something similar happens with the degradation of the environment due to the intensive or irrational exploitation of natural resources, when the source of food or work of a community of fishermen is exhausted and, due to the dumping of polluting substances into the river or streams where they carry out their activities, the fish population disappears or ceases to reproduce at a rate that allows sustainable fishing, provided that a direct or indirect cause and effect relationship can be established between the action or omission of the defendant and the effects on the river in question.

This strategy for the determination of cases of violations of the human right to a healthy environment could work as an argument against the more skeptical conceptions that consider the legal viability of the referred right little less than impossible, protected by the inexistence of international instruments of a binding nature that expressly recognize this right, the extraterritorial nature of its effects and “the impossibility of exercising the right to the environment properly before the courts due to the same indeterminacy of the legal concept of environment and the inexistence of procedural mechanisms that allow invoking its protection” (Borràs, 2014).

4. Discussion

In short, it can be affirmed that the right to live in a healthy environment does not constitute an autonomous human right, independent of any other of the rights recognized to the individual; rather, it is a right resulting from the symbiosis of previous rights from whose extension more and more rights are derived that require special protection, which further demonstrates the interdependence between human rights and the need to address them in an articulated way.

If one looks closely at each of their constituent elements, the above conclusion can be duly substantiated: as to the subjects, they continue to be exclusively human beings, although the right extends to all without distinction, not so much because it is a right inherent to every human being, but because the effects of its violation can affect them all. In terms of its object, it is common to the basic rights that protect human life against facts or events that may put it at risk: the right to live in a healthy environment implies, for example, the right to health, or rather not to be a victim of diseases caused by the use, exploitation or exploitation of natural resources or by the indirect consequences derived therefrom.

From the point of view of its essential content, the right to live in a healthy environment contains a requirement that goes beyond the basic rights implicit in it, and consists of respect for the conditions that make life on earth possible, and especially human life, but not only life in its sense of existence, but the existence of quality and in harmony with the environment which, although it does not prevent its use in favor of the satisfaction of the needs and interests of human beings, this must be done within limits that allow the natural regeneration of the environment and natural resources.

The right to a healthy environment is not one of those that can be exercised directly by its holders; in other words, its effective enjoyment does not depend on what the holder may or may not do, but on what the public or private authorities must or must not do; its limit is therefore measured by the effects of the actions or omissions of others rather than by those of the holder. Consequently, the limit for the exercise of this right must be sought in the use, exploitation, and exploitation of natural

resources: when this is not sustainable, sustainable, rational, or balanced, the right to a healthy environment is violated, not because of the actions themselves but because of the negative effects on the quality of human life.

From the point of view of guarantees, the right to a healthy environment is defensible through the same ways and procedural means as the rest of the rights, since it is a collective right any person can exercise the actions authorized by law to demand its respect before the competent authorities; however, it presents some difficulties related to the determination of the person obliged to satisfy the demands derived from that right when it is not possible to establish a direct relation of cause and effect between the action or omission of the defendant and the violation of the right, or the instance before which the claim must be brought.

In any case, the successive expansion of international and national interest in the protection of the right of people to a healthy and ecologically balanced environment does not have an impact exclusively on the quality of life of human beings, for which the environment constitutes a means, but has been extended to consider the environment and nature as an object or good in itself, in need of legal protection, regardless of its usefulness for the satisfaction of material needs for the adequate development of human life.

From this perspective, whoever causes damage to the environment, ecosystems, or natural resources, may be obliged to respond legally, by criminal, civil, or administrative means, even when such damage does not directly or immediately affect the human right to live in a healthy environment, or any of the particular rights that may be included in that right, provided that this is possible under the applicable environmental legislation.

This point of view constitutes a new way of analyzing the environment and its relationship with human life, traditionally seen as a patrimonial link, or as a relationship in which the environment and natural resources have as their only consideration that of being a means for the satisfaction of human needs; the novelty of the point of view is that the environment and natural resources must be protected independently of, and even against, the economic interests of those who exploit or

benefit from them because in any way such protection is in the interest of humanity as a whole.

The transition from an anthropocentric to a biocentric conception is thus encouraged, one of the most novel current manifestations of which is the recognition of nature, or some of its particular elements, as a subject of rights.

5. Conclusions

From the present research, an exploratory bibliographic review has been carried out to gather the theoretical and empirical evidence available on the elements that environmental management promotes and conceptualizes in Latin America. Despite the restrictions such as the insufficient number of studies found and the possible biases linked to the limitations in the research methodology used, this work tries to summarize the scientific evidence about the elements of sustainable environmental management where the juridical elements are the only stimulus or factor that makes the systematization of environmental management in this case in the Latin American context.

It can be concluded with relative certainty that constitutional and legal guidelines improve the existing barriers in management to the incorporation of environmental elements. The juridical configuration of the right to a healthy and ecologically balanced environment allows us to affirm that the quality of the subject of rights attributed to nature can be understood from the analysis of third-generation rights, because despite the differences between the subjects there are points of confluence, such as the indeterminate character of its holders, the diffuse rights that are proper to them, solidarity as a founding value for their exercise, the obstacles faced by the theory for the concretion of their content that hinders their applicability, materialization and effective protection, and specifically from the environmental management, associated to the decision making process. However, beyond the sustainable development objectives of the 2030 agenda, environmental management is presented as a tool with great potential for the sustainable development of Latin American countries.

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