UNIVERSALITY, INDIVISIBILITY AND INTERDEPENDENCE OF HUMAN RIGHTS: THE ROLE OF BRAZIL AND THE UNITED STATES OF AMERICA IN FACE OF SOCIAL ENVIRONMENTALISM.

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Abstract: This article aims at offering a reflection over Human Rights in face of the social environmental issue in the United States of America and Brazil. On that purpose, a historic rescue of those rights is carried out in order to assess the affirmation of it along the different legislations that tried to legitimate the person in his/her claim by investigating legal and political influences. The analysis herein is based on the assumption that it is more and more necessary to have a transdisciplinary formulation of the public space before the influence of international organisms that is seen in the guiding principles of the State’s modernization project. In order to fulfill the proposed object of the research, we try to found analysis assumptions on the Social Environmental State of Law as a new implementation paradigm for Human Rights. As results of the investigation that was carried out, we can highlight that contemporary Human Rights are connected to the environmental theme and that United States and Brazil play an important role in that scenario.

Keywords: Protection; Human Rights; Brazil; United States; Social Environmental State

Resumo: Este artigo procura oferecer uma reflexão sobre os Direitos Humanos em face da questão socioambiental nos Estados Unidos América e Brasil. Para tanto, faz-se um resgate histórico desses direitos com o intuito de analisar sua afirmação ao longo das diversas legislações que buscaram legitimar a pessoa no seu pleito, servindo-se da investigação de suas influências jurídico-políticas. A análise que aqui se realiza parte da premissa de que é cada vez mais necessária uma formulação transdisciplinar do espaço público em face da influência dos organismos internacionais, que se verifica nos princípios orientadores do projeto de modernização do Estado. A fim de alcançar o objetivo de pesquisa proposto, busca-se fundamentar os pressupostos de análise no Estado Socioambiental de Direito como novo paradigma de implementação dos Direitos Humanos. Como resultados da investigação realizada, pôde-se destacar que os Direitos

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Humanos na contemporaneidade estão vinculados à temática ambiental e que os Estados Unidos e o Brasil tem papel de extrema importância neste cenário.

**Palavras-chave:** Proteção; Direitos Humanos; Brasil; Estados Unidos; Estado Socioambiental

1 Introduction

Human Rights are historically understood from lacks and interests in face of the demands resulting from the evolutionary process of society. However, the milestone that projected the triad universality, indivisibility and interdependence of those rights was the Declaration of Human Rights dated 1948, transversely to its international vocation, that is, as its demand was internationalized, such rights were more and more articulated into categories that are not tight. Nevertheless, the Declaration of 1948 only projected them once its consolidation just took place with the Declaration of Viena in 1993.

That conception is illustrated by its own division into generations (later on, we are going to approach the polemics regarding the terminology of generation or dimension): a) individual rights: political and civil; b) collective rights: social, economic and cultural; c) solidarity rights: to peace; to development and to the self-determination of peoples; to the use of common heritage of mankind; and to healthy and ecologically balanced environment. Thus, we cannot say that gerational categorization (although the term generation is recent) appeared with the advent of the U.N. document once, already in the 17th century, Englishman John Locke developed the theory of the natural freedom of the human being in which he attributed the fruition of it to the exercise of the right to property, inspiring the idea of the individual and his/her individuality. It is the genesis of the principle of individual rights.

This article suggests the development of the subject of Human Rights from a critical assessment of the attainment of it by the Countries analyzed herein - Brazil and the United States – so that it is possible to set forth the vindictive assumption of the State of Law in its current conception.

2 Development
The first list of individual rights had the objective of fighting the privileged aristocrat class but, as already mentioned above, it privileged the ascending bourgeoisie in the first place. Having a liberal influence, such rights were marked in their genesis by expressions of freedom such as: manifestation of willingness, freedom of economic initiative, of thought and expression, of coming and going, of labor, of politics, among others. Those are rights that state the wishes of the revolutionary bourgeoisie based on the philosophy of Illuminism, and that paradoxically manifest themselves in the abstention of the State – that statement is fought against by many thinkers, such as Hannah Arendt –, once they denounce some utopia in that abstention of the State because wouldn’t it be the one to legitimate such right? “First-generation Human Rights are based on a clear separation between State and non-State founded on the contractualism of individualist inspiration”\(^3\).

The second generation of Human Rights, with a focus on collective rights, appears in the 19\(^{th}\) century after a period when the liberal State and the pharaonic effects of the ascender, an industrialization process that would attack economy, are consolidated. During that time, several vindications due to the dissatisfaction of the impoverished working-class that claimed the frustration of formerly proclaimed liberties and denounced a new absolutism (now perpetrated by the burges) also appear. Once the conflict between classes is set forth under the intellectual articulation of Karl Marx, who developed a critical thinking on the reach of Human Rights and their universalization, it was believed that those liberties were divided into interests for burgesses to insure economic expansion and for workers (or proletarians) to sell their work force to burgesses – both are taken to an individual contractualism.

That generation of rights is a result of a deep contraction regarding what had formally been proclaimed in regards to the reality in force, and it was within that spirit that union movements and social politics inflated in the search for material consideration. The conflict that cut across the 19\(^{th}\) century and reached our days discusses the confusing debate about Human Right guarantees beyond individual rights once the fruition of those rights requires suitable social space. Thus, we notice the legal movement of abstention of the presence of the State. We also highlight the four events

that marked the social and political agenda: the Mexican Revolution and the Russian Revolution in 1917; the Weimar Constitution and the creation of ILO in 1919.

In order to legitimize those collective rights, the social, economic and cultural right terminology starts to be used and requires the positive action of the state intervention, contradicting the liberal matrix rights and forecasting adjustment and feasibility mechanisms.

The third generation of Human Rights is marked by the discussion regarding the enlargement of individual and social rights that have a strictly particularized format to converge into people or solidarity rights that expressed the desire of the entire humanity into a hybrid definition that would include individual and collective rights. Those were the bases of the after-war horrors when humanity found itself terrified by the atrocities of totalitarianism, the bombing of Hiroshima and Nagasaki, the hegemonic power blocks, the production of the contemporary risk and several other events of that historic time. Within that framework, we can get to the incredible understanding that humanity may be wiped off the face of the earth due to its military and technological instruments.

The risk issue that is posed in modernity and gets to post modernity, or reflexive modernity makes us believe that most of the human constructa is based on that complex and clever argument of coeval justification. Such is its importance for the third generation: many of the problems managed by the organized society are based on it, that is, risk became an intrinsic element of the different branches of management.

Ulrich Beck, a German sociologist, was the one who best approached the subject of risk from the concept of “risk society: towards the other modernity”.  

Beck says that this other social configuration is a vestige of the problems of industrial production, from where the concept of risk. That is, risk belongs to the order of discontinued continuity, of the modern society that, to reinvent itself, had to find in risk a way of social control and development.

However, what risk does the sociologist proclaim? It is the notorious search for a way to reflexively quench the void of the tradition of the post. Thus, it refers to a reflexive risk, not to a concrete one; an invented risk, not a residual risk of a process. In other words, says Beck: we are experiencing a transformation of the fundamentals of transformation.

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4 According to the author, as well as in the 19th century, modernization dissolved the old stamental agrarian society and, by purifying it, extracted the structural image of the industrial society. Today, modernization melts the contours of the industrial society and, in the continuity of modernity, another social configuration appears.
The social production of wealth changed into the social production of risks, especially scientific-technological ones. Beck says, the risks to which modernization refers are great businesses; they are insatiable needs that economists stimulate to heat the sector and potentiate profit. If risk, as said here, refers to catastrophes, one is able to say that risk society is a catastrophic society and, in it, the state of exception threatens to become normality.

In that context, how to think the right immersed in the reality of the abstract risk? How to think about its expertise, especially in what regards the social environmental field?

Contradictorily, the capital increases in the international space, multinational companies appear and a process of globalization of risk starts based on the requirements of that new market. Due to that, the developmental matrix undermines the environment and underestimates the capacity of the planet. Within that scenario, new interests are created and exposed in the field of Human Rights. Those rights are horizontalized in the relationship between individual-people-State, as listed above. On the last one – healthy and ecologically balanced environment –, we are having a specific approach when we talk about the social environmental State.

However, we have to say that some of the ones who are sharp in what regards those rights disagree of its classification in generations. For example, Cançado Trindade (1992) himself says that social rights come before in the categories of rights at the international level, with the creation of the International Labor Organization in 1919, prior to the 1948 Declaration.

However, Cançado Trindade’s (1992) criticism starts from the idea that international individual rights were established with the 1948 Declaration because he clearly refers to that. We agree with the author from the stand point of

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5 The thinker states once again that in the society of scarcity, the modernization process is and becomes concrete under the intention of opening with the keys of the scientific-technological development the gates that take to the deep sources of social wealth.

6 ANTÔNIO AUGUSTO CANÇADO TRINDADE. A PROTEÇÃO INTERNACIONAL DOS DIREITOS HUMANOS: FUNDAMENTOS JURÍDICOS E INSTRUMENTOS BÁSICO (1999) teaches the following about those new rights they do not restrict by enlarge, improve and strengthen the corpus of already known Human Rights: they reveal new dimensions of implementation of human rights and contribute to clarify the social context in which all are inserted. Besides, they raise a challenge: the need to expand and enrich even our own legal-conceptual universe, to think law in face of the complexity of the new and multiple legal relations that are presented to face the new requirements for the protection of the human being at the global sphere and to set forth the bases of a direct common future of the humanity, with the corresponding erga omnes obligations.
internationalization. As history tells us, national individual rights are registered as of the 18th century. That clarification is useful for us not to mix their perspectives: national and international.

Another point in this field deserving a highlight is that rights, although promulgated in a time sequence, failed to respect that succession order once they worked according to the urgencies of each period of time. Thereby, it points for the first time at their indivisibility and interconnection in the subject emancipation project. That is how, in a brilliant evaluation of Thomas Marshall (1967, p. 63), we notice that the different categories of rights held an importance in different centuries: in the 18th century it was focused on conquering civil rights; in the 19th century, political rights; in the 20th century, social rights. Pursuant to the English writer, it was necessary that the State itself got structured for demands to be met. We are going to defend, within Marshall’s (1967) reasoning that the focus is on social environmental rights in the 21st century.

Once the range of rights and corresponding criticism is contextualized, we have set the foundation to address the specificity of the topic, that is, the universality, the indivisibility and the interdependence of Human Rights. That insurgency in the legal and political scenario is aligned to the 1968 Conference of Human Rights in Tehran that states7.

The interdependence of the rights was recognized in the sense that the fruition of one of them implies in the presence of the other, proclaiming the strong connection among them. As we can see in the fragment above, article thirteen signals that indivisibility and the inter-connection of Human Rights at the international level. The UN has approved other documents that signal this important characteristic of human rights. We have, for example, Resolution 32/130 dated 1977, endorsed by two other resolutions 39/145 dated 1984, and 41/117 dated 19868.

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7 Estimating that, while conflicts and violences prevail in the world, solidarity and interdependence of the human being are more necessary then ever [...] §13. As human rights and fundamental liberties are indivisible, the fulfillment of civil and political rights without fruition of economic, social and cultural rights is impossible. Lasting progress in the application of human rights depends on good and efficient international policies for economic and social development.

8 The fulfillment of civil and political rights without fruition of economic, social and cultural rights is impossible: the attainment of lasting progress in the implementation of the human rights depends on national and international solid and efficient policies for economic and social development as recognized by the 1968 Proclamation of Tehran.
In 1993, the UN held the second International Conference of Human Rights in Vienna. At that time, the international vocation of the different generations of human rights was confirmed, as well as its representative triad: universality, indivisibility and interdependence. Due to the UN’s effort stating the rights as connected categories and respecting the categories of each state, we believe that the search for their implementation in the international and national ordering has as the essential focus the probability of their interaction.

It is worth highlighting the hermeneutic disagreement between Cançado Trindade (1992) and Bobbio (2006) once he declares the antinomy of the negative and positive generation of rights, that is, the individual ones that support themselves in the ideal of freedom in which the State has to abstain; and the collective ones that are supported on the social, where the State has to intervene to insure them. Bobbio (2006) distinguishes them, respectively, as liberties versus powers, making them understand their incompatibility and, then, their divisibility.

Bobbio (2006, p. 23) concludes that the consequence of that antinomy is translated into the incompatibility to find an absolute foundation for human rights. However, when he continues his reflection on that issue, he is going to say that in contemporaneity, the most important is not to justify them, from one last fundament, but protect them, showing that the problem is not philosophical, but political.

Cançado Trindade, on his turn, defends the fact that there is no antinomy, but complementarity, once the new rights do not replace the other ones, may they be from the generation of individual rights or collective ones, but they increase understanding exactly due to their indivisibility and interdependence.

In that imbróglio, the dimension of universality, indivisibility and interdependence of the different generations of rights presented herein is evidenced, having internationalization as their manifested vocation. In addition to that, some indoctrinators such as, for example, Cançado Trindade, replace the term generations for

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9 He teaches that they are antinomic in the sense that their development cannot take place in parallel: the complete fulfillment of some of them hinder the complete fulfillment of the others. The more the power of individuals increase, the more the liberties of those individuals decrease.

10 Among the different “categories” of individual, social and collective rights – there can only be complementarity and not antinomy, which reveals the artificiality of the simplist notion of the so called “third generation” of human rights: the solidarity rights, historically more recent, according to our understanding, interact with individual and social rights and do not “replace” them, differently from what the unsuitable invocation of the image of the succession of generations would intend or would seem to insinuate.
dimensions, whose points at something less tight, in order to escape the crossroads about antinomy. We are using the first expression with the meaning of the second one.

However, the passage from the Liberal State to the Social State has been convulsed by several different challenges, especially in what refers to the intervention where the State is called to operate. In the society of masses in which the person is constantly sent to the deepest side of invisibility, the State sees itself full in the interventionist claim, being demanded at all times by the individuals who want to have their interests met. A phenomenon comes up: the positive encroachment of the Social State by teasing the individual of a liberal matrix.

In order to go on speculating such hypothesis, we are addressing below the transit from the Liberal to the Social State, and we are going to instigate another one that is even more provoking, to the Social Environmentalist State.

We had a long and lasting foray in regards to the connection triad concerning the different generations of rights. But, although those rights take the risk of getting compatible in favor of the person inserted in it, such statement fails to represent a radical change of the condition of the State. To understand more accurately that argument, we are going to specify the subject of the Liberal and the Social states to get closer to the proposal of the Social Environmentalist State.

The Liberal State appears with the French Revolution, following the inspiration that the monarchical absolutism that understood the sovereignty of the king as a divine attribute should be fought in face of the freedom of the individual. The last one, now guided by reason, has to be able to formulate his own law and follow it, creating the first legal-political regime that worked as a guardian of individual liberties. In that new social arrangement and through the burgess class, they look for the non intervention of the State in the economy, the validity of the principle of formal equality, Montesquieu’s division of powers, the supremacy of the constitution as the guardian of governmental power and the guarantee of the individual rights set forth in the constitutional text.

The French Constitution of 1791 said that: “every society that fails to secure the guarantee of the rights and the separation of powers does not have a constitution”. It is within that containment context that the Liberal State is going to infuse the idea of fundamental rights and the division of powers. The political philosophy of John Locke corroborates that statement, as said above, and also the ones of Montesquieu and Kant, the main articulators of that new model of State. Another category of philosophers that
adhered to that movement and contributed to its contractualist ideas were Thomas Hobbes and Jean-Jacques Rousseau, already mentioned above.

Despite the fact that the model of liberalism was established and before the abstention of the State in face of individuals, it assumed them, monopolized by the insignia of liberty and having the same capacities. The chimera of equality and liberty would not prevail otherwise some would take advantage of the others’ weaknesses and instrumentalize them. And that is what the burgess class and the nobility, who respectively held the economic and the political power, did. The State not intervening in the economy was a strategy to put the power in the hands of burgesses to obtain immesurable profit in business once they had the free operationalization of the economy. Having that objective in mind, they even created the “minimum State” with the excuse of economic self regulation – a model copied by neoliberals (BONAVIDES, 2011)

Another principle of the Liberal State is the equality that is spread by the French Revolution once the bourgeoisie had special influence due to the fact that it recognized formal, not material, equality. The submission of all was searched regarding the law with general and abstract characteristics – that was a novelty brought by the emerging State -, once that in the feudal system, segmented into strata, each one held his own legal order, which denounced a series of privileges for the nobility and at the disadvantage of the bourgeoisie. Thus, the emerging State of Law was decorated with general and abstract laws that served all equally but, at the same time, failed to serve anyone as the legitimate owner of a right.

The diaspora between politics and economy at that historic time made formal juridicity based on equality refrain the nobility’s absolutist impulse and secure the bourgeoisie’s industrial-capitalist development plan, respectively.\footnote{On that subject, Bobbio (1988) says that in the liberal doctrine, State of Law means not only subordination to political powers of any degree to the general laws of the country, a limit that is merely formal, but also subordination of the laws to the material limit of recognition of some fundamental rights considered constitutionally, and thus on the line of inviolable principles.}

Within that set of interests, the Liberal State creates the rights founded on individual liberty, originating first-generation Human Rights of civil and political content, as already mentioned. It is important to notice that the creation of those rights is aligned to the intentions of a certain class with clearly economic motivations. And the negative behavior they required from the State had to do with the increasing concern about the bourgeoisie called material or substantive subject rights and, later, procedural...
rights that aim at securing that other one. This fact results in another phenomenon: the individual is not a mere individual anymore to become a citizen holding the rights that are protected by the State.

Thus, we conclude that the project of the Liberal State aims at the expansion of capitalism and preaches in favor of the total abstention of that one. However, most citizens would see their demands in disadvantage, especially the working class living in miserable conditions. That State model had no commitments with the social aspects and it was denounced after the Industrial Revolution, in which several workers raised against the development fallacy to the detriment of fair existence guarantees, once they were unmeasurably explored\textsuperscript{12}.

The appearance of the Social State was an idea of the bourgeoisie to refrain the internal Revolution and also the Russian Revolution’s threats. That is how the new model of State came up with the support of the tripod: intervention of the State in the economy, application of the material equality principle and achievement of social justice. The first one results from the ascension of the bourgeoisie to the political sphere, which allowed it to manipulate the intervention of the State in the economy in favor of poorer or less favored classes and also allowing them to slowly have a better condition of life.

On that purpose, it was necessary to change the status of the equality, which started to have force in its material dimension to supposedly reach social justice. To paraphrase Rui Barbosa, they had the intention to treat the unequal according to their inqualities\textsuperscript{13}.

Social rights are sitting on the pilar of individual liberties. And even more, they are going to be characterized in their universal vastness on the writings of 1848. It is under the bulwark of work and the worker that such rights shone in the State of Law. However, a serious conclusion comes up: “while securing the existence of the worker

\textsuperscript{12} In modern times, except in philosophical and idealist programs, it is essentially the individual who postulates the State the way he needs. In fact, he only requires safety to be able to freely develop his forces; on that purpose, he happily offer a well measured sacrifice, remaining the more thankful to the State the smallest is his previous action. (BURCKHARDT apud BONAVIDES, 2011, p. 148)

\textsuperscript{13} Gordillo (1977) says that The basic difference between the classical concept of liberalism and the one of the Welfare State is that, while that one is not only placing barriers to the State, forgetting to also set positive obligations, here, without forgetting to maintain barriers, if purposes and tasks are aggregated to which he was not obliged before. The basic identity between the State of Law and the Welfare State is that the second one gets and maintains from the first one the respect for individual rights and it is on that base that it builds its own principles. (1977, p. 74)
through work, the government agrees to insure that all citizens have work”. In addition to that, work in that context refers to property, that is, “property that fails to come from work is not justified, work that fails to lead to property is oppressive”\textsuperscript{14}. Félix Pyant, quoted by Herrera, stresses that “when entering society in a busy, shared, portioned world, the man exchanges his individual rights for his social rights. What are his social rights? Work and property.”

The convergence of both – work and property – is going to be latent in the insurgence of the second-generation rights that are located in the insurgence of second generation rights located in the uncertainty of economic and social, implementing the following logical perspective: \textit{it is necessary to have to be}. We can refer to that sentence at different levels of validity: the one with political-legal bias in which it is necessary to \textit{have} the citizenship to enjoy the right, as noticed in Arendt’s criticism or the one with economic bias in which it is necessary to \textit{have} work to enjoy the dignity of having the property; among other conditioning factors.

It seems to us that the model proposed by the Social State with a material evidence in order to legitaly satisfy the dimension of the being was gradually converted into a condition of its possibility, especially when we conclude that the \textit{animal laborans} \textsuperscript{15} is condemned in the contemporaneity to the production and consumption cycle in the same proportion. One justifies the other!

We do not disagree of the agostinian adagio that says that “without minimum material well being it is even impossible to praise God”. Our intention is not to assert the Liberal State, but to denounce the Social State. If on that one the abstention left the individual to their own, in this one the intervention is individual, that is, it meets the demands of the sectored collectivity, forgetting the majority or the plural fruition of rights. Individuality is still a distinction that guarantees public space, where each one guarantees his/her part. In fact, the Social State looked for a structural transformation of the Liberal State from the facticity between political equality and social unequality, but was frustrated in the intention of securing democratic participation and effective social justice. In the words of Paulo Bonavides “the Social State fells sorry for antagonic regimes such as the democracy, the fascism and the national-socialism”.

\textsuperscript{14} CARLOS MIGUEL HERRERA. ESTADO, CONSTITUIÇÃO E DIREITOS SOCIAIS. IN: NETO, CLÁUDIO PEREIRA DE SOUZA E SARMENTO, DANIEL (ORGS.). DIREITOS SOCIAIS: FUNDAMENTOS, JUDICIALIZAÇÃO E DIREITOS SOCIAIS EM ESPÉCIE 9, (2010)

\textsuperscript{15} Expression used by Hannah Arendt in Origens of totalitarism. Translation of Roberto Raposo. São Paulo: Companhia das Letras, 2011.
Soon, a new legal model appears from the guidelines of the Democratic State with the ones of the State of Law. On that subject, Bobbio talks about its relation of complementarity using the following words\textsuperscript{16}.

In that two way vector, third-generation rights appear guided by transindividuation (or metaindividuation) and, thus, we go from a Constitutional Cooperative State, inspired by Peter Häberle from the idea of transnationalized citizenship and an international community law. We are going to approach the Social Environmental State from that perspective, with characteristics of trans or meta prefixes.\textsuperscript{17}

The genesis of the emergency of a Social Environmental State is in the Our Common Future Comum Report dated 1987 and coordinated by the then first minister of Norway Gro Harlem Brundtland, who recognized in general terms the asymmetry between the economic and social development model, stressing that a sustainable development model goes through the balance of those two pillars, that is, from the environmental issue the social may reflect at the level of global justice. We understand that the beginning of the environmental law is aligned to that probability of environmental degradation, a result of the formal economic liberalism and of material inequality.

The term social environmental that waves at that new state development model converges, as the name says, to the social and the environmental in the same political-legal project. Other names such as: State of Environmental Well Being and Constitutional Environmental State cannot translate that incidence. Not even Post Social State, once there is no overlapping concerning second-generation rights, but a conceptual and hermeneutic complementation. There is a political and legal journey that gathers in the social and ecological dimensions as a current paradigm of the dignity of the human being.

\textsuperscript{16} [o] the Liberal State and [o] the Democratic State are interdependent in two ways: in the direction that goes from liberalism to democracy in the sense that some liberties are necessary for the correct exercise of the democratic power, and to the opposite direction that goes from democracy to liberalism, in the sense that it is necessary to have the democratic power to guarantee the existence and the persistence of the fundamental liberties. In other words: it is not probable that a non liberal state may secure the correct operation of democracy and, on the other hand, it is not probable that a non democratic state is able to insure the fundamental guarantees. (2006, p. 65)

\textsuperscript{17} TIAGO FENSTERSEIFER. DIREITOS FUNDAMENTAIS E PROTEÇÃO DO AMBIENTE: A DIMENSÃO ECOLÓGICA DA DIGNIDADE HUMANA NO MARCO JURÍDICO-CONSTITUCIONAL DO ESTADO SOCIOAMBIENTAL DE DIREITO (2008)
Morato Leite (2010) states that previous models failed to include the environmental crisis in their political conception, for both the capitalist segment and the industrial collectivist one. On the contrary, they associated economic development to quality of life. On that purpose, the environmental issue gets bigger as and important and transversal subject for the State of Law since the beginning of the 21st century. Thus, the passage from the Liberal to the Social State and now to the Social Environmental one (also Constitutional and Democratic) defined by the historic, political, economic and social process created in the previous century, places the protection for the environment as the fundament of legitimacy.

Nowadays, ecological risks point at the uncertainty regarding the permanence of men on Earth, placing them under permanent suspicion in what concerns the near future and the next generations. It is from that future that come the bases of the Social Environmental State, considering the need for equal development of the different dimensions of law, may that be the hypertrophy of the individual or the patrimonialist axiological base. Community and ecologic join the dignity of the human being to form a new sustainability imperative.

The Liberal State is centered on the first pilar of the French Revolution: liberty. The Social State, on its side, promoted the second one: equality. The “new” Social Environmental State is projected on the third revolutionary cry: fraternity. Supported by that one, which has a universal and plural nature, the prerogatives of solidarity between creator, creation and creature are going to be adjusted18.

Irrationalities of audacious ideations claim for human intelligence in its reinvention capacity. The urge for a new state paradigm urged by the demands of universality, indivisibility and interdependence, as exposed, becomes essential in face of the current aggravation of political institutions. However and as said, the reconfiguration of the public space is going to be the stage for the transformation and development of human rights. It is at the light of an articulated political plan that those

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18 The following consideration of Boaventura de Souza Santos (1994) illustrates that passage the accumulation of irrationalities in the imminent danger of ecologic catastrophe, in misery and hunger to which part of the world population is subject – when there are resources available to provide them with a decent life and a minor part of the population lives in a wasting society and dies of abundance, in the destruction of the war between populations and communities on behalf of ethnical and religious principles that modernity seemmed to have disposed of forever, in drugs and the medicalization of life as a solution for an alienated, asfixiating and solutionless routine – all those and many other irrationalities accumulate at the same time the crisis of solutions that modernity proposed gets deeper, among them is socialism and its maximum theoretical awareness possible, marxism. Rationalities seem rationalized through mere repetition. (SANTOS, 1994, p. 55)
insinuations may get effective. Or from the recognition of the collective awareness disseminated in the public space.

That new configuration of the contemporary State of Law, crossed by the Social Environmental State, presents, according to Canotilho, the following fundamental dimensions: juridicity, democracy, sociability and environmental sustainability. The Portuguese constitutionalist points at some evolution of the State of Law itself: Constitutional State, Democratic State, Social State and Social Environmental State. There is an internationalization movement from the evolution of the fundamental rights to try to fundament its principles and values.

We conclude from the fragment above that two currents belong to the Social Environmental State: the obligation of it in cooperation with other States and citizens or social groups in the promotion of public policies guided by the requirements of the sustainable platform; the obligation to adopt behaviors that fit the environment to shape the responsibility with the future generations.

In that new scenario, there is going to be a dialectic between the State and other States – here, Brazil and the United States –, the individual and other individuals and State and individuals. That is why we justify the social environmental State as trans or meta as it trans-stadualizes the State and trans-individualizes the person to potentiate it to a political, legal, economic, social, environmental metajustification.

Thus, the United States of America, concerned about the respect for the human rights, prepared with other countries a historical document called the Universal Declaration of Human Rights, dated 1948.

After the Second World War, the United Nations, being aware of the need to harmonize and pacify all the countries in the world especially the ones that effectively fought and to provide for the necessary economic growth, created the famous Declaration.

Although some say that the objective of the Declaration was economic stabilization rather than the preservation of Human Rights, the fact is that the document is undoubtedly a theoretical milestone that supports decisions issued by several International Courts while judging the protection of the Dignity of the Human Being, as demonstrated above when describing its development phases.

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19 To exemplify what was said, Canotilho (1998) stresses the way how our contemporaneity reveals itself as one of the most suitable to gather those principles and values from a State subordinated to law is a constitutional State of democratic Law and social environmentally supported. (1998, p. 31)
In fact, President Franklin Roosevelt had an important role in promulgating the Declaration. That evidences the concern of the president with economic stabilization after the war without forgetting the humanistic issues that may have been the main concern of other countries that suffered less from the period of the 2\textsuperscript{nd} World War, which is fully justified by the assumption that the President aimed at the economic recovery of his country.

We notice that Brazil, as a developing country and certainly one of the largest economies in the world, as well as the United States of America, a developed country, play an important role securing the international protection of Human Rights, including historically.

In fact, in both South America, where Brazil is the main country in terms of economy, its territorial extension and political influence, and North America, because the United States is one of the largest nations in the world in all senses, it is important to nationally and internationally take over their role of leadership and to act so that all countries respect Human Rights.

In face of the modern definition of the term “Social Environment State”, the United States of America and Brazil have the obligation to influence the other nations so that the ecologically balanced environment, as a corollary of Human Rights, is respected by all, as they always did, according to the Universal Declaration of Human Rights we explained above.

That hypothesis is justified by all the characteristics exposed herein, due to the specialties of the Human Rights and the eminence of Environmental Law that undoubtedly reinforce the obligation of the United States of America and of Brazil in the Universal Social Environmentalism.

3 Conclusions

The incontestable historic importance of Human Rights and the increasing importance of Environmental Law, within the discussion about social environmentalism, have to be used as inspiration in the construction of a social environmental State with huge legal value.

In fact and as demonstrated, the progress of the study of Human Rights in the legislation of several countries has always tried to legitimate the Human Being as a
unique creation that has special feelings and, thus, that deserves special attention from the Legal Science and especially from the political issues of nations and international relations.

The State of Social Environmental Law, as a modern construction and undoubtedly founded on Human Rights, has in its theoretical aspects fundamental importance in the legal-political relations of the countries that are aware of the importance of ecological preservation, as well as in the relations between the different nations.

On that purpose, the United States of America and Brazil, as nations that are important worldwide and that are opinion formers, can and have to be attentive to the principles of Social Environmentalism as a corollary of Human Rights, influencing all the countries in the construction of a better world for the Human Being and insuring an ecologically balanced environment where everyone is a part.