

OIL EXPLOITATION AT VIRUNGA PARK AS A THREAT TO THE ENVIRONMENT AND TO ENDANGERED ANIMAL SPECIES

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ABSTRACT

This article aims at addressing the impasse created by the government of the Democratic Republic of Congo (DRC)¹ when it granted to Soco, an English multinational company, the permit to exploit oil and start drilling inside the Virunga National Park in the province of North Kivu, Ituri area, which is protected by UNESCO as a Heritage of Humanity and recognized worldwide as the sanctuary of the mountain gorillas, okapis and several other endangered animals or animal species. The article is inspired in the international mobilization promoted by Non-Governmental Organizations (NGOs) such as the Human Rights Watch (HRW), Global Witness, World Wide Fund For Nature (WWF) and by other national and international human and animal rights movements, as well as by Ituri's civil society. What is the future of Virunga Park in face of the economic development from oil exploitation to benefit poor riparian populations praised by the Central Government and the sustainable development based on the preservation and conservation of the Park recommended by the non-governmental organizations and the movements listed above? Considering the arguments of the Government in favor of economic development to fight the poverty and misery of the riparian populations, in one hand, and the UN's

¹ The Democratic Republic of Congo (DRC), former Zaire and also known as Congo-Kinshasa due to its capital city, Kinshasa, to differentiate it from the Republic of Congo, whose capital city is Brazzaville, is a country in central Africa, the second largest country in Africa for its extension after Independence from South Sudan in 2011. It borders the Central African Republic to the north, Sudan to the south, Uganda, Rwanda, Burundi and Tanzania to the east, Zambia and Angola to the south, the Atlantic Ocean, the enclave of Cabinda and Congo-Brazzaville to the west. RDC's population is about 70 million inhabitants. Regarding biodiversity, RDC is seen as the second in the world after Brazil. Refer to https://pt.wikipedia.org/wiki/Rep%C3%BAblica_Democr%C3%A1tica_do_Congo Accessed on jun. 22, 2015.

opposite positioning through UNESCO, NGOs and the civil society, on the other hand, the dialectic method is going to be used by means of a descriptive research founded on a bibliographic survey.

Keywords: Right of animals. Environment; Virunga Park; Heritage of Humanity; UNESCO.

EXPLORAÇÃO PETROLÍFERA DO PARQUE DE VIRUNGA COMO AMEAÇA AO MEIO AMBIENTE E ÀS ESPÉCIES ANIMAIS EM EXTINÇÃO

RESUMO

O presente artigo pretende abordar o impasse criado pelo Governo da República Democrática do Congo (RDC)² ao conceder à multinacional Soco, uma empresa inglesa, a licença para explorar petróleo e iniciar as perfurações no Parque Nacional de Virunga, na província do Kivu-Norte, região de Ituri, considerado Patrimônio da Humanidade e tombado pela UNESCO, reconhecido mundialmente como santuário dos gorilas da montanha, dos okapis (ocapis) e de vários outros animais ou espécies de animais em extinção. O artigo se inspira da mobilização internacional promovida por Organizações Não Governamentais (ONGs) tais como *Human Rights Watch* (HRW), *Global Witness*, *World Wide Fund For Nature* (WWF) e por outros movimentos de direitos humanos e de direitos dos animais tanto nacionais quanto internacionais, bem como pela sociedade civil de Ituri. Qual é o futuro do Parque de Virunga em face do desenvolvimento econômico oriundo da exploração petrolífera com o intuito de beneficiar as populações ribeirinhas pobres preconizada pelo Governo Central e do desenvolvimento sustentável assentado na preservação e conservação do Parque recomendado pelas organizações não governamentais e pelos movimentos supramencionados? Considerando a argumentação do Governo em favor do desenvolvimento econômico para combater a pobreza e a miséria das populações ribeirinhas, de um lado, e o posicionamento oposto da ONU através da UNESCO, ONGs e sociedade civil, de outro, utilizar-se-á o método dialético mediante pesquisa descritiva assentada no levantamento bibliográfico.

Palavras-chave: Direito dos animais; Meio Ambiente; Parque de Virunga; Patrimônio da Humanidade; UNESCO.

² The Democratic Republic of Congo (DRC), former Zaire and also known as Congo-Kinshasa due to its capital city, Kinshasa, to differentiate it from the Republic of Congo, whose capital city is Brazzaville, is a country in central Africa, the second largest country in Africa for its extension after Independence from South Sudan in 2011. It borders the Central African Republic and South Sudan to the north, Uganda, Rwanda, Burundi and Tanzania to the east, Zambia and Angola to the south, the Atlantic Ocean, the enclave of Cabinda and Congo-Brazzaville to the west. RDC's population is about 70 million inhabitants. Regarding biodiversity, RDC is seen as the second in the world after Brazil. Refer to WIKIPEDIA, 2015.

INTRODUCTION

In a time when the environment claims for conservation and protection through international conventions, acts and treaties, from Stockholm (1972), passing by Tbilisi (1977), Copenhagen (1995), Rio 92 and Rio + 20, to the COP 21 (UN Climate Change Conference) in Paris, one cannot deny the relevance of this article that aims at analyzing the economic and social interests involved in the exploitation of oil at the Virunga National Park in the Democratic Republic of Congo (DRC), classified and protected by UNESCO as Heritage of the Humanity.

There is a real war of communications between, on one side, the Central Government that granted the permits to the English company Soco for it to start the feasibility studies to ease the exploitation of oil in the name of the economic development of the area and, especially, of the poor populations and, on the other side, UNESCO, ONGs and environmentalist movements that mobilized the international community, the North American authorities and the British Parliament to put pressure on the multinational company, Soco, so that it abandoned the project.

Along the last decades, oil has become essential in the western industrialization process. The need for economic development and productivity to generate excessive profit to the detriment of environmental protection and conservation is praised. Due to the technological advances, the obsession of the human being in destroying nature in the name of scientific progress emerged and, at the same time, the emphasis of the anthropocentric paradigm that, in the relationships between the subject and the object, makes nature a simple disposable, exploitable and exhaustible object. Such conception launched an uncontrolled race to consumption resulting from the wild capitalism and to irrational deforestation, causing irreversible damages to the environment.

The highest technological progress generated individuals with a more demanding and wasteful consumption standard. That factor plus the increase of the population on the planet aggravated the level of environmental degradation and decreased the quality of life of populations. (SEIFFERT, 2014, p. 51)

Thus, it is possible to understand the great concern of the UN through UNESCO, Non-Governmental Organizations (*Human Rights*

Watch, Global Witness) and the civil society about the environment when they are against the exploitation of oil in the Virunga Park, understanding beforehand that such exploratory activities are unlikely going to benefit poor populations in Ituri, and they are going to damage and pollute the environment, being able to take protected species to extinction and to significantly change the ecosystems.

That problem has generated conflicts of interests among the parties, taking the international community, by means of the UN, to manifest against the exploitation of oil, infuriating the Government in the name of the state sovereignty before external injunctions. Is it possible to exploit oil in the Virunga Park, Heritage of Humanity to insure economic development in the area and, as a consequence, fight the extreme poverty of the populations, or natural resources should be preserved and conserved, including the oil in the Park, respecting the protection set by UNESCO over the ecologic reserve to the detriment of the miserable people? Would it be possible to conciliate the economic development encompassed by oil exploitation to the sustainable development of the oldest African reserve, with its immeasurable natural resources and its beautiful fauna and flora?

What kind of development would be suitable for riparian populations in the Virunga Park without destroying it, its biodiversity and its ecosystems? Before technological progresses and the need to exploit oil in the name of the sovereignty of the State that can dispose of its natural resources, how to overcome anthropocentric and biocentric paradigms (the human being as a part or link in the chain of life) to set forth a new model embraced by a collective project for the environment having planetary solidarity and responsibility as pillars, that is, search the epistemological field to find the know how to look after the environment and the ecology with a compassionate eye on the Earth, the *Pachamama*, or the mother who nourishes, and, from an ethical standpoint, to develop an intergenerational responsibility ethics for planetary commitment and solidarity once, as it is possible to read by analogy pursuant to article 225 of the Federal Constitution, “all people have the right to an ecologically balanced environment, an asset jointly used by the people and essential for a healthy quality of life, the obligation to defend and preserve it for the present and future generations being imposed to the Public Power and to the collectivity.” (BRAZIL, 1988).

In agreement with article 225 of the 1988 Brazilian Federal Constitution, the Congolese State insures the protection of the environment

and the health of each individual when it sets in article 53 of the Constitution of the Democratic Republic of Congo that “All people have the right to a healthy environment that provides for their whole development. They have the right to defend it. The State guarantees the protection of the environment and the health of the populations.”³ (CONGO, 2006)

One can also notice that, in article 54 of DRC’s Constitution, the conditions for the construction of plants, for storage, for packaging, for handling, for incineration and disposal of toxic, polluting or radioactive waste from industrial or non-industrial units installed in the national territory are going to be set forth by the law. That is the objective responsibility of the companies regarding environmental damages.⁴

In that event, article 54 states that “Any pollution or destruction resulting from an economic activity generates compensation and/or repair. The law defines the nature of the compensatory and repair measures as well as their execution modalities. (CONGO, 2006).

Thus, the Congolese government is invited to responsible environmental management by taking the oil exploitation permit from the British multinational Soco, by promoting the sustainable development of the riparian populations in the Virunga Park, Natural Heritage of Humanity, by means of sustainable development through tourism and other promotion activities in favor of life once “the guarantee of an ecologically balanced environment for all directly collides against the Principle of the Economic Activity that is made clear in the standards advocated by the world market economy with no concerns about environmental preservation for the present and future generations.” (BOAVENTURA, 2014, p. 122)

Considering the reality that is disclosed through the facts linked to the Congolese government actions when exercising its sovereignty to grant the prospection permit to Soco in the name of economic development and, on the other hand, the action and pressure put by the UN – UNESCO, the Non-Governmental Organizations and the civil society on the Congolese authorities, this paper uses empiric and interpretative research in its descriptive dimension and, regarding the divergences related to the kind of

3 Art. 53 – “Toute personne a droit a um environnement sain et propice a son épanouissement integral. Elle a le devoir de le défendre. L’État veille à la protection de l’environnement et à la santé des populations.” (CONGO, 2006). Note: modified text.

4 Art. 54 – “Les conditions de construction d’usines, de stockage, de manipulation, d’incinération et d’évacuation des déchets toxiques, polluants ou radioactifs provenant des unités industrielles ou artisanales installées sur le territoire national sont fixées par la loi.

Toute pollution ou destruction résultant d’une activité économique donne lieu à compensation et/ou à réparation. La loi détermine la nature des mesures compensatoires, réparatoires ainsi que les modalités de leur exécution.” (CONGO, 2006).

development between the pros and cons of oil exploitation in the Virunga Park, the dialectic method is used so that the light of sapience shines over the clashes and debates to protect and conserve the environment and the social wellness of the populations affected by the predatory activities performed by the multinational companies on the African territory with its countless natural resources.

1 GETTING TO KNOW THE VIRUNGA PARK

Humanity is living in a time of radical changes or transformations both from the technological and the climate standpoints. Human actions are pointed at as factors of destruction of Planet Earth, of nature and its ecosystems, causing violent climate changes, pollution of land, water and air spaces, as well as the greenhouse effect and the water and energy crises.

The global concern over the environment has taken the UN, through UNESCO, the Non-Governmental Organizations, Human Rights Watch – HRW, Global Witness and the civil society in North Kivu, especially in Ituri, to warn the international community on the exploitation of oil in the Virunga Park, declared by UNESCO as a Natural Heritage of Humanity and the sanctuary of the mountain gorillas and of several other endangered species, by the British multinational company Soco as a consequence of a permit granted by the Congolese authorities in order to promote economic development in the area and to improve the conditions of life for riparian populations.

Virunga Park is located in the North Kivu region, province of Ituri, in the Democratic Republic of Congo (former Zaire or former Belgian Congo). “It occupies from the Virunga Mountains to Ruwenzori Mounts in the Democratic Republic of Congo, limiting the Volcanoes National Park in Rwanda, and the National Park of Ruwenzori Mount in Uganda.” (VIRUNGA, 2015a). It is the oldest and the most protected park in Africa with its astonishingly beautiful landscape and the richness of its fauna that shelters not only the mountain gorillas but also other endangered species.

According to comments on the Girafamania site, “The Virunga Park, established in 1929 in accordance with some specialists, is an “integral reserve”, “an evolution of the vegetal and animal world with no human intervention.”⁵

⁵ Read comment available at: < http://www.girafamania.com.br/africano/park_congo_virunga.html>. Accessed on: Jun. 20, 2015.

It has an extension of 300 kilometers and it is 15-km wide (790,000 hectares)... It is located inside the Semliki Forest, to the north of Kivu Lake and to the south of Edward Lake. The Ituri Forest is further to the north and it is where the famous okapi was discovered – a particular species originated from the eastern part of the former Zaire’s forests. Edward is the lake that has the highest number of fishes in the country, with hundreds of water birds coming from the cold Siberia and over 20 thousand hippopotamus.” (VIRUNGA, 2015b)

Learning a little more about the Wonders of Creation in the DRC, which is a real geological scandal due to the exuberance of its fabulous richness that attracts the greed of neighboring countries and of several multinational companies, and the disgrace of its poor population submitted to endless armed conflicts, Virunga Park “is one of the most beautiful natural reserves in the world. For now, the oil drilling plans have been cancelled. However, the future of the park is still not safe” (MAIS ÁFRICA, 2015).

In what regards the cancellation of drillings, after undergoing a lot of pressure from UNESCO and the NGOs, the international oil public limited company Soco expressed its intention to stop the activities in the Virunga National Park, which is the oldest park in Africa, and also agreed to “stay away from all the other UNESCO’s World Heritages”⁶

Effectively, the company announced its intention to stop exploiting and drilling oil in the park on June 11, 2015 unless the Congolese government and UNESCO decide there is compatibility between the Heritage of Humanity statute and oil exploitation. In such an event, is it possible to exploit oil in a natural reserve recognized as a Heritage of Humanity?

Soco’s resignation is obviously a victory for the environmental organization World Wide Fund For Nature (WWF)⁷, which had accused Soco before the Organization for Economic Cooperation and Development (OECD) and required the end of oil exploitation. WWF’s main office is in Switzerland and WWF’s mission

6 Available at: <http://www.wwf.org.br/?40042/Companhia-petrolifera-Soco-nao-vai-explorar-petroleo-no-Parque-Nacional-Virunga-Patrimonio-da-Humanidade> Accessed on: jun. 19, 2015.

7 WWF - World Wide Fund For Nature was created in 1961. The acronym meant World Wildlife Fund. However, to avoid confusion, the organization prefers to use WWF to characterize its mission to organize for global conservation, except in North America, where it is still known as World Wild Fund (WWF). WWF-Brazil was founded in 1996 as a national organization and integrating the WWF Network. For more information, refer to WWF, 2015.

[...] is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by: conserving the world's biological diversity; ensuring that the use of renewable natural resources is sustainable; promoting the reduction of pollution and wasteful consumption. (WWF, 2015)

However, it was well known that oil exploitation would take place at Lake Edward in the Virunga Park at the border with Uganda, a real ecological reserve recognized in 1925 by the Belgians who colonized the Congolese territory. It is acknowledged as a unique area: “with active volcanoes, tropical forests, savannahs and mountains covered by snow. In 1979, UNESCO appointed the park as a Heritage of Humanity” (MAIS ÁFRICA, 2015).

That is where the difficulty for the Congolese government comes, to explore something that is forbidden by the UN, through its international office, clearly going against the sovereignty of the State to dispose of its natural assets to meet the needs of its people, its populations and to guarantee its human rights, especially the second generation ones, that is, the economic, social and cultural ones. Would the economic development generate enough job positions to meet the demand of the population? Is it possible to conciliate economic development and sustainable development in the case of oil exploitation, preserving and conserving the environment?

3 ECONOMIC DEVELOPMENT X SUSTAINABLE DEVELOPMENT

The very disputed game over the economic interests in the Kivu area, in general, and in North Kivu, Ituri, in particular, justifies the formulation of the problem in this paper, which is to “expressly, clearly, understandably and operationally say” if it is possible to promote economic development in the area of Ituri through the exploitation of oil by the State in the exercise of its sovereignty before the poverty and misery of the populations living in the park and the surrounding areas, granting a permit to foreign polluting and destroying multinational companies and, at the same time, to maintain a sustainable development policy, preserving and conserving the national resources in the park, its biodiversity, its ecosystems, considering the future generations? Is it possible to promote sustainability with the exploitation of the park declared Heritage of Humanity in order to

fight the poverty and misery of the riparian populations? Can the natural resource economic exploratory model be maintained with no threats and damages to the environment, specifically in the Virunga National Park?

In this case, Belgian settlers have been calling the attention for the importance of the Virunga ecological reserve and the need to preserve it since 1925. The fact is that, in the 20th century, a mad rush to industrialization took place with the help of technological advances and great innovations and, at the same time, from an epistemological point of view, the little information available about the environmental issue and the deliberate ignorance over the use of natural resources as if they were endless. There was no concern about the environment, the pollution of the space and the oceans, greenhouse effects, the use of chemical products, climate changes, water and power crises, as well as the extinction of some animal species.

Oil exploitation in Virunga Park reactivates the discussion over the “consequences of economy on the environment”, as SEIFFERT (2014) emphasizes when she considers the points of view defended during the United Nations Conference on the Human Environment in Stockholm, Sweden, in 1972.⁸

In what regards the paradox between economic development and sustainable development, Mari Elizabete Bernardini Seiffert (2014), quoting Moura, observes:

The developed countries, in that conference, defended an international program aimed at the conservation of the natural and genetic resources of the planet, saying that preventive measures would have to be implemented immediately, which would avoid a terrible disaster in the future. The countries under development argued that they were struck by misery, seriously housing problems, basic sanitation, infectious diseases and that they needed to develop their economies. (MOURA *apud* SEIFFERT, 2014, p. 12)

In fact, the preamble of the Declaration of Stockholm on the Human Environment (1972) highlights “the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment.” The progress of Science and Technology with the power to transform the environment is

⁸ As Mari Elizabete Bernardini Seiffert emphasizes, “This conference counted on representatives from 113 countries, 250 non-governmental organizations and several UN agencies.”

recognized as being “essential to well-being and to the enjoyment of basic human rights and the right to life itself.” (STOCKHOLM, 1972)⁹

It is important to say that, in the present declaration, the anthropocentrism is denied for biocentrism to be more stressed, giving the human being the role of creature and creator of the environment “which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth.” (STOCKHOLM, 1972). That obviously requires from the human being to be more careful towards the environment and to have more responsibility in the dynamic process of protecting and conserving.

At the light of the Declaration of Stockholm, it is urgent to protect and preserve the Virunga National Park in face of the possibility of oil exploitation once “the protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.” (STOCKHOLM, 1972)

It is clearly noticeable that the Congolese authorities failed when they insist on the need to exploit oil in the Virunga Park, Heritage of Humanity, instead of using a lighter developmental argumentation in the era of Sustainable Environment and Development with an eye on future generations in what regards the use of natural resources that are no longer inexhaustible.

It is also possible to oppose the Congolese government when it praises economic development in the exercise of its sovereignty and its right to dispose of natural resources in favor of social wellness, based on principle 4 of the above mentioned Declaration:

Principle 4 – Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat, which are now gravely imperiled by a combination of adverse factors. Nature conservation, including wildlife, must therefore receive importance in planning for economic development. (STOCKHOLM, 1972)

In the face of the misery and poverty of riparian populations living in the Park protected by UNESCO as a Heritage of Humanity, it is important to look for a new definition for the economic model so that the Congolese State develops other mechanisms or other less destroying

⁹ Refer to the Preamble of the Declaration of Stockholm on the Human Environment (1972)

and polluting economic activities for social wellness without exploiting oil from the Virunga reserve, that is, it would be possible, for example, to develop tourism to collect millions of dollars as it happens in Egypt that, in 2014, “received 10 million tourists and the sector provided the State with 7.5 million dollars, and growth of 1.6 million dollars comparing to 2013.” (TIM-TIM, 2015).

According to the Egyptian minister of tourism, Hisham Zaazou (2015), Egypt collected 12.5 million dollars in 2010, but the income decreased due to the Arab Spring. It is well known that tourism is one of the most profitable economic activities in the country, but the political and social instability frightened the tourists, resulting in a significant reduction of collection.

The number of tourists that visited the country in December 2014 got to 781.6 thousands, comparing to 677.7 thousands in the same month in 2013, an increase of 15.3 % according to the state statistics agency (Capmas, acronym in English)... Visitors from Eastern Europe represented 39.1% of the total, the ones from Western Europe, 34%, and from the Middle East, 14.9%. The total number of Arab tourists was 141.1 thousands, considering the 100.8 thousands in December, 2013, a 39.9% growth (TIM-TIM, 2015)

Such statistics is revealing to refute the argumentation in favor of oil exploitation under the excuse of the economic development of the Ituri area and, especially, the lives of riparian populations, fighting the extreme poverty in which they live. It is clearly possible to develop other economic activities such as tourism, favoring handicrafts and conscious fishing for the sustainability of the populations that are potentially going to be affected by oil exploitation with the pollution and destruction of the ecosystems, the fauna and the flora.

For Leonardo Boff (2012, p. 138) “sustainable development becomes feasible the more it comes from the interaction between the community and its respective local and regional ecosystem.” Within that context, it is possible to offer the populations in Ituri an integrating perspective of their needs in order to preserve and protect the environment without affecting them in their search for a decent life in the satisfaction of their fundamental needs. Their social wellness is the result of a new way of being, good living and the promotion of sustainability.

4 ENVIRONMENTAL CONSEQUENCES OF OIL EXPLOITATION IN THE VIRUNGA PARK

It is important to remember that economic growth and development have been more often pursued than has sustainable development in the last decades. The first one is seen as the cause of environmental degradation and profit maximization in a market economy, generating an imbalance in income distribution and, at the same time, stressing the distance or the abyss between the rich and the poor. The poor are usually the victims of natural resource exploitation by foreign multinational companies, as it happens in Ituri with Soco. They are subject to environmental pollution and contamination, which can generate an ecological disturbance.

One can notice that environmental imbalances are generated by production standards and the ecologically unsuitable occupation of the physical space that, in turn, generate more social differences. In countries under development, poverty increased due to the uneven distribution of resources, creating a vicious circle in which misery generates more misery. (SEIFFERT, 2014, p. 33)

The Preamble of the Declaration of Stockholm (1972), paragraph 4, emphasizes the environmental problems generally connected to industrialization and technological development. An inequality between developed countries and countries under development is seen.

In the developing countries most of the environmental problems are caused by under-development. Millions continue to live far below the minimum levels required for a decent human existence, deprived of adequate food and clothing, shelter and education, health and sanitation. Therefore, the developing countries must direct their efforts to development, bearing in mind their priorities and the need to safeguard and improve the environment. For the same purpose, the industrialized countries should make efforts to reduce the gap themselves and the developing countries. In the industrialized countries, environmental problems are generally related to industrialization and technological development. (STOCKHOLM, 1972)

Environmental degradation is one of the biggest problems generated by industrial expansion or by the industrialization process that results, *ipso facto*, in the search and depletion of natural resources. However, it is possible to integrate the economy to the environment,

overcoming the antagonism between economic development and sustainable development.

In fact, the need for a new paradigm to conciliate economic growth and environment conservation and protection for the future generations is noticed. Environmental quality requires planetary responsibility and solidarity because the environment, as “an asset jointly used by the people”, has to guarantee the basic needs of the human being without harming their social and economic development, rationally using science and technology “to discover, avoid and fight the risks that threaten the environment in order to solve the environmental issues and for the joint wellness of humanity”¹⁰

Besides the fact that Virunga Park was declared a Natural Heritage of Humanity, it is important to highlight the importance of preserving it for the future generations in face of the possible risks resulting from oil exploitation.

On that purpose, Taysa Schiocchet and Mônica Souza Liedke declare:

The issue regarding the protection of future generations is directly linked to the application of the principle of precaution, as it has already been mentioned, in a context where science loses the monopoly of truth and proves to be insufficient before the problems that, many times, were generated and pushed by the discoveries themselves. (SCHIOCCHET; LIEDKE, 2012)

It is also important to highlight that

Environmental scientists and ecologists are more and more often pushing us to base our efforts to avoid damages to the system that gives support to life on Earth on the **principle of precaution**: when evidence shows that an activity may seriously harm human health or the environment, we have to take preventive measures to avoid or minimize such damages, even if some cause and effect relationships have not yet been scientifically established. (MILLER JR, 2011, p. 136, author’s highlights).

For Adir Ubaldo Rech (2013, p. 203), “the mere and simple preservation of everything would end up expelling the human being from the Planet, once they are the only ones who effectively devastate native forests to live and plant other crops for survival.” Such survival is connected to the occupation of spaces where human beings develop

¹⁰ Cf. Preamble of the Declaration of Stockholm on the Human Environment (1972).

their economic activities. The reserve of Virunga has also been invaded by families that destroy and hunters who exterminate protected animals. The concern is not only about the English Company Soco, but also about human activities illegally carried out inside the Park and able to unbalance the environment.

There is no doubt that the environmental issue cannot be just an anthropocentric or social-environmental concern. Environmental preservation and conservation have to be approached as a biocentric concern, that is, for the preservation of life, in all its species and shapes, which mandatorily implies in setting forth environmental spaces or zones for the survival of the different existing biodiversities, among which are human beings themselves. (RECH, 2013, p. 203)

The Virunga Park case is an environmental awareness issue because poorer populations claim for a new economic order that is able to take a new environmental model based on sustainability and on conscious, responsible and solidary consumption. Humanity has to fight against all forms of environmental degradation. It is an obligation before the collectivity to defend and protect the environment in order to insure quality of life, that is, a healthy environment for both the present and the future generations.

For Leonardo Boff (2012, p. 107),

Sustainability is every action to maintain the energetic, informational, physical-chemical conditions that support all beings, especially the living Earth, the community of life and human life aiming at its continuity and also at providing for the needs of the present and the future generations so that the natural capital is maintained and enriched in its regeneration, reproduction and coevolution capacity. (BOFF, 2012, p. 107)

The fact that the Congolese government granted a permit for Soco to exploit and start drillings at Virunga Park without talking to the populations that are possibly going to be affected by the degradation of the environment, the pollution of rivers and the extinction of the species protected by UNESCO is a lack of ecologic responsibility, that is, responsibility towards the future generations once the reserve that was declared a Heritage of Humanity is a precious heritage that the State has the incumbency and the mission to transmit from generation to generation,

assuming the integral responsibility and not its destruction or degradation by predatory, destroying, exploratory and pollutant foreign companies.

Before the insistence of the Congolese government on the exploitation of oil for the economic development of the area, it is an imperative to apply the principle *in dubio pro natura*, inviting Soco to supply explanations based on the burden of proof that its transforming activities in the Virunga reserve would not result in damages to the environment. Nature cannot simply be seen as a supplier of raw material, but as a sanctuary of life, of interaction between the human being and other non-human beings.

Andreaia Mendonça Agostini and Raul Cezar Bergold (2013, p. 181) are in that diapason when they recognize that “the environment has to be seen not only from the natural resource approach, but as a propeller of conditions that are favorable to human wellness, thus designing a real parallel between human rights and the environment.”

In what regards riparian populations in the Park, it is important to say that, in case an oil exploitation permit is granted, it would immediately affect over 50,000 families that make a living on fishing activities and that depend on Lake Edward, fish being the most important source of feed for them. In case of environmental damages resulting from oil exploitation, fishing activities are going to be harmed by pollution in the lake and all the economic activities that provide for the survival of people and their families are going to be affected. It is also important to highlight the displacement of many of those families and the lack of settlements once, according to the government, many of them illegally take the area of the reserve.

One cannot forget that about 200 endangered gorillas live in the volcanic mountains of Virunga Park and that is what led UNESCO to declare the reserve a Natural Heritage of Humanity (MAIS AFRICA, 2015).

It is important to stress the vulnerability of the forests in the Democratic Republic of Congo. The forest located in the Park is threatened by the extraction of coal and wood, as is its biodiversity, once the Park is the natural habitat of over 700 species of birds and over 2,000 species of plants (MAIS AFRICA, 2015).

Virunga Park has huge possibilities according to the studies carried out by WWF’s environmentalists. It can generate up to 45,000 job positions in the areas of water power, fishing, ecologic tourism, medicine, scientific research and education (MAIS AFRICA, 2015) and promote

sustainable development with the capacity to generate one million euros a year.

In that case, there is no antagonism and even less exclusion between environmental preservation and businesses (economic activities). However, it is important to recognize that the Park has exceptional universal value and its statute of Heritage of Humanity does not allow for oil exploitation or drilling. The Congolese government is in charge of canceling the permits granted and adopting measures to preserve and conserve the Park, promoting sustainability activities, clearly defining the environmental zoning with an eye on its social-economic purpose and so that riparian populations are not harmed because they take an area in the Park.

It is essential that the Congolese authorities set forth protection rules according to the international conventions related to environmental management, geopolitics and sustainable development, biodiversity protection, global warming or climate changes, water and power resources management to which the Democratic Republic of Congo is a signatory.

FINAL RECOMMENDATIONS

The search of a healthy quality of life is perceived in the way a government treats its citizens and fights for the preservation and conservation of its environment from the implementation of public policies to value its environmental reserves. The defense of the environment is an obligation of all that cannot be sacrificed before what Boaventura de Sousa Santos calls the “thriving development of capitalism”.

The objective of this paper was to analyze the controversy created by the Congolese government when it granted a permit to the English multinational company Soco to exploit oil and start drilling at the Virunga National Park, which UNESCO had declared a Natural Heritage of Humanity for sheltering the endangered mountain gorillas and for its exceptional biodiversity. The government certainly did not count on the violent and efficient reaction of the Non-Governmental Organizations (Human Rights Watch, Global Witness, WWF), the organized civil society and UNESCO itself asking for the drillings to be suspended and for the Congolese authorities to cancel the permits issued so that oil exploitation would be impaired and insuring the defense, the protection and the conservation of the environment.

Based on the research carried out, it was possible to conclude that, to defend and to protect the environment, multinational companies that destroy natural resources and pollute the environment cannot have primacy and prominence. Virunga Park is a real sanctuary for gorillas, for biodiversity and for the ecosystems in the area of Ituri in the province of North Kivu.

The Congolese State is responsible for promoting the economic development model aligned to the sustainable development embraced by the good governance and the good environment management in what regards the exploitation of natural resources. The Democratic Republic of Congo is one of the poorest countries in the world in terms of GDP and Human Development Index (HDI), but it is one of the wealthiest ones in what regards natural resources with no fair usage for most of its populations. It is time to improve the conditions of life for the Congolese people by means of public policies aimed at the human being and at the defense and protection of the environment, insuring quality of life for all.

With no antagonism between economic development and sustainability, the authorities are expected more efficient actions towards the preservation of the environment and, at the same time, they are also expected to respect the international commitment of conserving Virunga Park as a Heritage of Humanity, eliminating once and for all the possibility of irreversible damages from oil exploitation.

Finally, opposing oil exploitation at Virunga Park, this paper favored the Egyptian model in what regards the sustainable model embraced by the ecologic tourism, which has brought enough financial resources to that country for its economic development without damaging the environment.

Let it be so for the Democratic Republic of Congo in the conscious use of the resources in the Virunga Park with a compassionate and solidary look towards future generations.

REFERENCES

AGOSTININI, Andreia Mendonça; BERGOLD, Raul Cezar. Vidas Secas: Energia hidrelétrica e violação dos Direitos Humanos no Estado do Paraná. *Revista Veredas do Direito*, v. 10, n.19, p. 167-192, jan./jun. 2013.

BOAVENTURA, Antônio Marcos. O direito fundamental ao meio ambiente

ecologicamente equilibrado e à economia de mercado. In: REZENDE, Elcio Nacur; BIZAWU, Kiwonghi (Orgs). *Direito Ambiental e desenvolvimento sustentável: uma redefinição da consciência ambiental planetária*. Belo Horizonte: Escola Superior Dom Helder Câmara – ESDHC-, 2014.

CONGO. (Constituição de 2006). *Constitution of Democratic Republic of Congo*. 2016.

BOFF, Leonardo. *Sustentabilidade: O que é – O que não é*. Petrópolis: Vozes, 2012.

GRANZIERA, Maria Luiza Machado. *Direito Ambiental*. 3 ed. São Paulo: Atlas, 2014.

FURLAN, Anderson; FRACALOSSO, William. *Direito Ambiental*. São Paulo: Forense, 2010.

MAIS ÁFRICA. *Parque Nacional de Virunga ainda ameaçado*. Available at: <<http://www.dw.de/parque-nacional-de-virunga-ainda-amea%C3%A7ado/g-17799462>>. Accessed on: Jun. 19, 2015.

MILLER JR, G. Tyler. *Ciência Ambiental*. Trad. da 11ª edição americana. São Paulo: Cengage Learning, 2011.

RECH, Adir Ubaldo. O zoneamento ambiental e urbanístico como instrumento de tutela efetiva e eficaz do meio ambiente. *Revista Veredas do Direito*. Belo Horizonte, v. 10, n. 19, p. 193-222. Jan/Jun. 2013.

RUDIO, Franz Victor. *Introdução ao projeto de Pesquisa Científica*. Petrópolis: Vozes, 1986.

SCHIOCCHET, Taysa; LIEDKE, MônicaSouza. O Direito e a proteção das gerações futuras na sociedade do risco global. *Revista Veredas do Direito*. Belo Horizonte, v. 9, n. 17, p. 109-131. Jan./junho, 2012.

SEIFFERT, Mari Elizabete Bernardini. *Gestão Ambiental: Instrumentos, Esferas de Ação e Educação Ambiental*. 3 ed., São Paulo: Atlas, 2014.

SIMIONI, Rafael Lazzarotto. *Direito Ambiental e Sustentabilidade*. Curitiba: Juruá, 2006.

TIM-TIM, Tomás. *O Egito quer ampliar o setor de turismo e já mostra*

bons indicadores. Disponível em: <<http://www.africa21online.com/artigo.php?a=10129&e=Especiais>>. Accessed on: Jun. 21, 2015.

VIRUNGA National Park. Available at: <<https://www.google.com.br/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=parque%20nacional%20de%20virunga%20congo>>. Accessed on: Jun. 19, 2015a.

VIRUNGA National Park, former Albert National Park. Available at: <http://www.girafamania.com.br/africano/park_congo_virunga.html>. Accessed on: Jun. 22, 2015b.

WIKIPEDIA. *Democratic Republic of Congo*. Available at: <https://pt.wikipedia.org/wiki/Rep%C3%ABlica_Democr%C3%A1tica_do_Congo>. Accessed on: Jun. 22, 2015.

WORLD Wide Fund For Nature. Available at: <http://www.wwf.org.br/wwf_brasil/wwf_mundo/> Accessed on: jun. 19, 2015.

WWF. *Site*. Available at: <http://www.wwf.org.br/wwf_brasil/wwf_mundo/wwf/>. Accessed on: Jun. 19, 2015.

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