http://dx.doi.org/10.18623/rvd.v14i28.985

ENVIRONMENTAL FUNCTION OF PROPERTY: A CONCEPTUAL PROPOSAL

Giselle Marques de Araújo

Juris Doctor at the Universidade Veiga de Almeida (UVA/RJ).
Master of Laws at the Universidade Gama Filho (UGF).
Professora at the Universidade Católica Dom Bosco (UCDB).
Email: giselle_marques@hotmail.com

ABSTRACT

The article intends to deeply examine the substance of the expression "environmental function of the private property", verifying if the environmental function is a species of the genre "social function" and the relevance of the frequent usage of the term "social environmental function of property". To accomplish that, it inserts the theme in the context of the General Theory of Fundamental Rights, understanding right to property and right to a balanced environment as rights historically conquered and modified. Brings to the center of the analysis hypothesis in which the social and environmental interests collide, such as the need of settlement for landless families in environmentally sensitive areas. In search for an explaining principle, the research uses the Inductive-Deductive Method proposed by Aristotle, arriving in the conclusion that, even though the social and environmental function of property share a common foundation, they both share different substances, the first directed towards the protection and defense of the environment, and the second to the generation of resources (employment and income) and food production. Therefore, the usage of the expression "social-environmental function of property" is not always adequate. Regarding the conceptual aspect, defends "the environmental function of property" as an output or fulfillment of the purpose of environmental conservation, and as a category that carries value within itself.

Keywords: environment; fundamental rights; social interest.

FUNÇÃO AMBIENTAL DA PROPRIEDADE: UMA PROPOSTA CONCEITUAL

RESUMO

O artigo pretende esmiuçar o conteúdo da expressão "função ambiental da propriedade privada", verificando se a função ambiental seria espécie do gênero "função social" e a pertinência da frequente utilização do termo "função socioambiental da propriedade". Para tanto, insere a temática no contexto da Teoria Geral dos Direitos Fundamentais, compreendendo direito de propriedade e direito ao meio ambiente equilibrado enquanto direitos historicamente conquistados e modificados. Traz ao centro da análise hipóteses nas quais o interesse social e ambiental colidem, como é o caso da necessidade de assentamento de famílias "sem terra" em áreas ambientalmente sensíveis. Na busca de um princípio explicativo, a pesquisa utiliza o método indutivo-dedutivo proposto por Aristóteles, resultando na conclusão de que função social e função ambiental da propriedade, embora tenham uma base comum, apresentam conteúdos distintos, esta voltada para a proteção e defesa do meio ambiente, aquela para a geração de recursos (emprego e renda) e produção de alimentos, nem sempre sendo correta a utilização da expressão "função socioambiental da propriedade". Sob o aspecto conceitual defende a "função ambiental da propriedade" como desempenho ou cumprimento da finalidade de conservação do meio ambiente enquanto categoria que carrega valor em si próprio.

Palavras-chave: *meio ambiente; direitos fundamentais, interesse social.*

INTRODUCTION

Little has been produced in scientifical research in Brazil, to delineate the contents of the expression "environmental function" of the private property. The doctrine uses frequently the expression "socioenvironmental", as if the social and environmental function had the same meaning. The purpose of this study is to contribute with the definition of the environmental function contents, highlighting situations in which the social and environmental interests enter in collision course.

The research was developed starting from the analysis of the tension between property and environment, in the light of the discussion about the fundamental rights[1] which in the Brazilian case are listed in their almost totality in the article 5th of the Constitution in force since 1988. The right to the balanced environment, however, is not mentioned in this list: it is included in the article 225. According to DERANI (1988, p. 91) this does not mean that it should not be considered a fundamental right " as a right is fundamental when its contents invoke the human person freedom".

The classical "The Age of Rights" ("A Era dos Direitos") by Norberto Bobbio is mandatory reference when one intends to understand the fundamental rights[2]. According to Bobbio (1992, p.5) the rights of man, however fundamental they may be, are historical rights, born under certain circumstances, "characterized by struggles in defense of new liberties against old powers, and they were born gradually, not all at once, nor once and for all".

The right of property in a first stage of its historical development was based on the individual's need for the enjoyment of a negative freedom, consubstantiated in the non intervention of the State in the

1 There are those who defend as criterion to identify the fundamental rights, the express mention to this condition by the Constitution, what at first seems to be a safe way (among these, Retortillo(1988, p. 65) and Hesse(1998, p. 225); but on the other hand it may mean "casting" to reduce the fundamental rights notion to a mere formal criterion, even if provided by the Carta Magnam itself. Sharing this opinion, Sarlet (2001, p. 97) and Piovesan (1997, p.78-80).

2 There are no little criticism to the formulation of the "generations" of fundamental rights proposed by Bobbio. About this, Trindade (2003, p. 41) opposes what the called " fragmentary vision of the humano rights", defending the "complementary nature" of all the human rights, with which agreed (2013, p. 31). Despite the recognized knowledge of the authors who share this vision, however, there is disagreement to this understanding, as Bobbio did not defend that a generation of rights would not revoke or exclude the other. Identifying the "generations of human rights", Bobbio intended to illustrate as occurred with the emergence of each class of human rights, according to each historical moment. Bobbio´s theory did not propose the divisibility of the human rights, or the hierarchy among them, as some authors have understood wrongly. His thought contributed moreover so that it could be, in a didactic form, perceive the emergence and positivation of the human rights, as a result of the struggle of the "new rights" against "old powers".

individual sphere, classified by Bobbio as "first generation right", born from the parliament's fights against the absolute sovereigns. The political and social freedoms, in turn, in Bobbio's view, would be the result from the birth, growth and maturity of the employees' movement, "of the peasants with little or no land at all", which started to demand from the State, "not only the recognition of the personal freedom and of the negative freedom", but also " the protection of work against unemployment", the right to education, to health, in short, the social rights, classified by Bobbio (1992, p.6) as "of second generation". Alongside these, the third generation rights emerged, which:

> [...] constitute a category, to say the truth, still excessively heterogeneous and vague, which prevent us from understanding what it is really about. **The most important of them is that one claimed by the ecological movements: the right to live in a non polluted environment**. (grifamos)

It is in face of this uncertainty concerning the contents of the right to the ecologically balanced environment and its reflections upon the right of property sphere that the current study is carried out, with the purpose of contributing for the understanding of this phenomenon about which the existing theories are not sufficient, in special, with regards to the definition of what would actually be the "environmental function" of the private property.

1 THE FUNDAMENTAL RIGHT TO A HEALTHY ENVIRONMENT

The ecological awareness advances increasingly every day, being present in the legislative frame of most western countries. Sarlet (2008, p. 50-51) identifies the right to a balanced environment among the fundamental rights of the "third dimension":

> The fundamental rights of the third, dimension also named rights of the fraternity or of solidarity, bring as distinctive note the fact that they, at first, detach themselves from the figure of the individual as its holder to be designed to the protection of human groups (family, people, nation), characterizing, consequently, as rights of collective or diffuse ownership.

Some constitutions include the right to the ecologically balanced

environment in the list of the fundamental rights. In Europe, the Conference of the United Nations on the environment held in Stockholm-Sweden in 1972 has decisively influenced the constitutions of the people who were liberated from dictatorial regimes, as in the case of Spain and Portugal. The 1976 Constitution of the Portuguese Republic, in the article 66, inserted among the economic, social and cultural rights, the "right to human life to a healthy and ecologically balanced environment". Inspired in this disposition, the 1978 Spain Constitution disciplined in the article 45[3]:

> Todos tienen el derecho a disfrutar de un medio ambiente adecuado para el desarrollo de la persona, así como el deber de consérvalo; 2) Los poderes públicos velarán por la utilización racional de todos los recursos naturales, con el fin de proteger y mejorar la calidad de vida y defender y restaurar el medio ambiente, apoyándose en la inexcusable solidaridad colectiva; 3) Para quienes violen lo dispuesto en el apartado anterior, en los términos que la ley fije se establecerán sanciones penales o, en su caso, administrativas, así como la obligación de reparar el daño causado.

In the case of Germany, after the Conference of Stockholm there were intense doctrinaire debates about the need to incorporate the right to a healthy environment in the constitutional sphere. However, only in 1994 the Basic Law received the article 20a, with the content as follows[4]:

> Der Staat schützt auch in Verantwortung für die künftigen Generationen die natürlichen Lebensgrundlagen im Rahmen der verfassungsmäßigen Ordnung durch die Gesetzgebung und nach Maßgabe von Gesetz und Recht durch die vollziehende Gewalt und die Rechtsprechung.

The German Basic Law, therefore, attributed to the State the duty of the environment protection, instead of instituting a fundamental right to the environment. Even so, that country doctrine attributed considerable

3 NT:From free translation by the author"1) Everyone has the right to enjoy a adequate environment for the person development, as well as the duty to preserve it. 2) The public powers must ensure the rational use of the natural resources with the purpose of protect and improve the quality of life, defend and recover the environment, counting with the inexcusable collective solidarity. 3) For those that violate the provision in the previous items, in the terms of the Law, there will be established penal sanctions or, depending on the case, administrative, as well as the obligation to make good the damage caused.

4 NT:From the free translation by the author, to the approximate version in Portuguese: The State must protect life natural basis, taking into account also its responsibilities for the future generations, in the constitutional sphere, according to the Law, through the Legislative, Executive and Judiciary Powers.

weight to this principle. As for Professor Calliess (2001, p. 18-23)[5], to whom this constitutional provision, linking the legislator to the production of environmental protection norms, allowed for the judicial control in face of the prohibition of inefficient protection, similar to the objective perspective of the fundamental rights, and consistent with the Canaris formulation (2009, p. 36).

Callies work presents an analysis of the effective and potential tension between the environmental protection and the fundamental rights protection that would be the State of Law central function. This tension is seen in situations in which the environmental protection conflicts with the fundamental rights, such as the property right, which is also the central nucleus of the current article. Thus, Callies reflection can be used to verify if the ecologically balanced environment is a "fundamental right".

Although in the case of Germany the right to the ecologically balanced environment is not among the fundamental rights, Callies (2001, p.29) defends that the environmental protection is currently condition of the State legitimacy [6]. Therefore, the State must take the due care so that the risks of damage to the fundamental individual's goods do not become as great as to become a danger in the legal sense. The State of Law, according to this author, must be attentive to the fact that it should coordinate the spheres of the citizens' rights in function of the maximum possible freedom, keeping away the conceptions that may result in an "ecodictactorship".

In other words, the environmental protection duty that the German Basic Law assigned to the State, in the article 20a, cannot mean a "*déficit* of the State of Law". How to make this effective? Callies proposes that the State, among the freedom restrictive and liberating measures, carry out the most protective consideration of freedom as possible and thus an effective true State of Law.

The consideration proposed by Callies goes beyond the discussions about fundamental rights collision which became well known in Brazil starting with the contributions by Alexy (2008, p. 85) [7] and Dworkin (2002,

5 Christian Calliess is professor of the Berlin Free University and post-graduation about the European integration of the Saarland University European Institute. Member of the Advisory Council for the Environment (SRU), his scientific study focus is the environmental policy in the European Law sphere and the fundamental human rights (included the protection rights).

6 Legitimacy is highlighted here as an external element to the system, but justifying it. Niño (1994, p. 62) reminds that "the validity of a given legal system cannot be founded in rules from this same legal system, but must derive from the external principles to the same system".

7 The conflict between principles constitutes one of the great challenges for the contemporary constitutional Law. The key for the solution of this problem, according to Robert Alexy, would be in the analysis of the structure of the rules of the fundamental rights, seeking the difference between principles and

p. 40-42)[8]. He arguments that there are no longer bipolar collisions, but "multipolar". And in this perspective, even without the environmental right express insertion in the catalogue of the fundamental rights, in Germany, it would be possible in that legal system the identification of an "Environmental State", expression that proves the need for considering the turning point in which the State of Law is found, with regards to the tension between environmental protection and the guarantee of other fundamental rights, among which the property right.

Considering that the human activity will always imply changes in the natural conditions, the focus of the "Environmental State" would be on the definition criteria for better environmental conditions, among which Callies highlights the principles of the precaution and the sustainable development. These would be the guidelines to be observed also in the legal interpretation of the issues involving the environment. Therefore, the State duty is not to let the development go freely in times when the technological advancement is very rapid, but then give directions to this development. From this State power-duty would result a double monopoly of the state power, so that the State duty of environmental protection set in the article 20a of the German Basic Law would be strengthened so as to be an equal power in relation to the fundamental rights in the individual subjective perspective.

The subjective and objective law interests, in a first moment, would be realized in the dimension of the defense of the individuals' fundamental rights subjectively protected; in second, by the dimension of the protection duties due to the fundamental rights. In third moment, by the common interests of environmental protection by the State, as the provisions in the article 20a. These interests could not be treated in isolation, but jointly, within a perspective of empowerment in the conception line of Robert Alexy. However, beyond Alexy's empowerment formula, Callies' proposal is to develop an exercise of proportionality that is multipolar in order to

rules. In the case of conflicts between rules, it would be possible to apply a "clause of exception" to one of them, or even the invalidation of the one which had less incidence in the analysis of a concrete case. The difference between principles, however, cannot result in the invalidation or revocation of any of them. A principle never revokes or invalidates another. Alexy propoposes a formula through which the interpreter would assign values based on each principle weight, according to its incidence characteristics on the concrete case. There would be two methods for the solution of conflicts, weighting and balancing. Alexy develops a proposal of weighting as alternative to the method of the Law interpretation and application.

8 Facing the issue of the difference between principles and rules, Dworkin affirms that the principles have a weight dimension or importance that the rules do not have, the, in case of conflict, the one with higher incidence weight on that concrete case, overlaps the other which, however, will not lose its validity.

resolve the concrete cases that arise when it is articulate a Environmental State within a State of Law.

Thus, even without the express recognition of the German Basic Law regarding the ecologically balanced environment as a fundamental right, the doctrine in that country expresses the environmental protection as a legitimacy condition of the State of Law. What to say, then, of the countries in which the Constitutions in force included the right to the healthy environment in the list of the fundamental rights? No few people understand it as a fundamental right. Canotilho and Moreira (1993, p. 37) say that the right to the environment is one of the "new fundamental rights". Raposo (1994, p. 15) considers it a "right of the personality and, simultaneously, a right and a constitutional guarantee". Prieur (2004, p.18) advances in the direction saying that the environment protection is not linked to the State *non facere*, but, to the contrary, it requires positive benefits from the State, in order to reinforce the infraconstitutional obligations of guaranteeing the essential ecologic processes by the public authorities. The inclusion of the right to the balanced environment into the list of the fundament al rights brings advancements that go far beyond an abstract political and moral impact, and which may result in significant benefits to the relationship of the human being with the nature.

Therefore, the conclusion is that the environment has been considered by the contemporary democratic constitutions as a fundamental right. However, it is necessary to go farther, breaking with the anthropocentric[9]view about the environment, towards a new conception according to which the environment must be respected by itself, by its intrinsic value.

Some people defend the environment protection as necessarily turned to human interests. Fiorillo (2006, p.16), for example, affirms that "the environmental right has a necessary anthropocentric view, as the only rational animal is the man, to whom it is up the species preservation, included its own". But alternative theories to this conception have been created, as the ecocentrism (also named physiocentrism), and the biocentrism; according to Kässmayer (2008, p. 140) the physiologists seek to justify the projection of the nature affirming that it is self-rated, independent of the economic, aesthetic or scientific interests. The biocentrism focus only on living beings, individual or collective.

9 According to Milaré (2006, p. 87), anthropocentric is the generic conception, in synthesis, that makes man the center of the universe, that is, the maximum and absolute values reference.

It is also possible to mention still, the ecologist personalism, which like the anthropocentrism, also considers the nature as an instrumental value, placing the man above the others beings that have the capacity of abstraction and, consequently, are not apt to produce culture nor to exercise the freedom, moving away from the instincts. The difference between them is the personalism which sees the man as the nature guardian.

It is worth to remember here Kant' s view (2007, p.23), that there are things which have their value on themselves, as the good will. The good will is not good for what it promotes, it is cosntituted as something that has its own full value in itself, it "must be appraised in a much higher degree than anything that can be achieved through any inclination or even of the sum of all inclinations". In this line of reflection, in this study it is defended that the environment must be respected for its intrinsic value and not only for its utility for the human being.

2 THE PROPERTY RIGHT

In the previous section, it became clear that the right to the environment ecologically balanced has been considered in the modern democratic constitutions as a fundamental right. And, even in the cases in which it has not achieved this *status,* as the example of Germany whose Basic Law assigned to the State the duty to protect the environment, instead of institute a fundamental right to the environment, such duty of the State would be reinforced to the point of being placed with equal force in relation to the fundamental rights in the individual subjective perspective. But, in this new moment, in which the right to the environment appears as fundamental right, would the right to property continue to be a fundamental right?

Rodotá (1990, p. 12) emphasizes the need to overcome the right to property while "a terrible right", that exercised by the owner against all the other members of the society, *erga omnes,* in the most literal and negative meaning, frequently associated to the concentration of wealth and to the social exclusion. The historical development of the human rights imply a re-reading of this right to property, consistent with Bobbio's (1992, p.4) view, in the sense that "the affirmation of the rights of the man derives from a radical inversion in the relation State/citizen or sovereign/subjects" through which is affirming the right of resistance to the oppression, that is, the individual's right to not to be oppressed, and to enjoy some

fundamental freedoms. Among these fundamental freedoms, is the right to property, intrinsically linked to the right to freedom, a right to the State non intervention?

In this passage one sees how the issue of the right to freedom remains present and modern. It is not stagnant in time, a right from a past age. It has been renewed assuming new contents, composed no longer exclusively by the restrictive prohibition of state intervention, but also by imperatives of protection, in the line defended by Sem (2000, p.54) when speaks of the "instrumental freedoms", which would be those that contribute, direct or indirectly, for the global freedoms that people would have to live as they wish. This metamorphoses that is included in the freedom contents was highlighted by Lira (1997, p.107):

> The concept of freedom is redefined over time. It has its outlines changed due to the historical circumstance, due to the development, contention and liberation of the economic forces. Hence the variability of its content, which does not remain the same.

Ricardo Lira brings the definition of André Lalande, according to which freedom can be taken in three meanings. In the general meaning, freedom would be "the state of the individual that does not suffer constraint, acting according to its will, its nature". In the polítical and social meaning freedom would mean the "absence of social constraint imposed to the individual", who is free to refuse all that is not ordered by Law and to do everything that is not forbidden by the Law". There would be still a third meaning, that could be named "psychological or moral", according which freedom is the state of the individual that after reflecting with awareness decides for the good or the evil, realizing with its acts its real nature. According to those senses, Lira (*idem*, p.108) concludes:

> Upon these premises, it cannot be denied that Freedom, in any of its senses, and the Right to the Earth are linked as inseparable notions, either the Right to the Earth in the rural environment, or the Right to Earth in the urban environment.

The Constitution in force in Brazil considered both the property and the defense of the environment as general principles of the economic activity, as it can be seen in the provisions of the article 170, especially in the incises II and VI. In Ferreira's opinion (2004, *apud* BEJAMIN 2010,

p. 292), this new wording seems to propose, objectively, the need for the impositions, resulting from the environment protection duties, to meet the principle of the proportionality, in order to admit that the environment defense only is realized by means of protection measures that meet the objectives of environmental safety; however, also allowing the exercise of the economic activity. Thus, the protection measures, according to this author, must be those that "import the least restriction to the other goods or rights involved in the relationship, and that show to be concretely necessary and sufficient for guarantee of the expected protection".

This line of reasoning, also present in Callies' thought (2001, p. 32), above mentioned, leads to the conclusion that the duties of environmental protection must seek to avoid the least possible restrictions to the right of property. Even because, in the Brazilian case, this right was declared in the article 5th XXII of the Federal Constitution. Then, what is sought is the understanding of the new contents of this institute, in face of the provisions in accordance with the provision in the incise XXIII, according to which " the property will meet its social function", compared with the provision in the article 225, in the sense that "everyone has the right to the ecologically balanced environment".

The environment is consolidate in some moments framed into the property. It is in this stage that the life show is ready, without destroying or revoking it. Thus, the great difference between the past and the present, is that currently "the right to property appears also in the qualified environment", as affirmed Benjamin (2010, p.90), whose lesson is worth to emphasize :

> The appropriation of the spaces by the human intervention – either by the land occupation, or by the land parceling and the urban plan of the cities – is conditioned by finalities and uses that must be protected.
>
> The principle of the property social function overlaps the private autonomy, that rule the economic relations, in order to protect the interests of the whole collectivity around a right to the ecologically balanced environment. Only the private property that fulfills its social function has the constitutional protection. For this reason, its non compliance implies the imposition of a sanction: the compulsory expropriation. This is suffered by the owner exactly due to the irresponsible exercise of the right and the inadequate management of the natural resources.

Based on these reflections, it is possible to affirm that the right of property continues being a fundamental right, however linked to the duty to fulfill the social function and the environmental function. This conditioning, in addition to being an obligation of the property owner, will be supervised and managed by the State in such a way as to interfere the least possible in the right of property. In other words, the State intervention is legitimate provided it occurs to the extent necessary to fulfill the social and environmental function.

The State role in this context turns to be risk management, according to Giddens (1995), as on the one hand it must take action to prevent the deepening of the collective damages generated by the contemporary way of living (pollution, deforestation, new technologies, etc) and, on the other hand, must be reinforced in order to guarantee the less possible interference in the already consecrated fundamental rights.

3 PROPERTY SOCIAL FUNCTION AND ENVIRONMENTAL FUNCTION: SIMILARITIES AND DISTINCTIONS

In this stage of the reflection proposed here, the question that needs to be asked concerns the contents of the property social function and environmental function, in face of the system introduced by the 1988 Federal Constitution.Would this one be the species of that one? Would both have the same meaning? The Weimar Constitution of 11 August 1919 was a historical milestone in overcoming the individualist paradigm hitherto in force. In the article 153, stated that "The Constitution guarantees the property. Its contents and its limits result from the law. The property obliges and its use and its exercise must at the same time A represent a function in the social interest ".

This new feature of the property, after the Weimar Constitution, linked to a function in the social interest, started to have influence on other legal systems, as in the case o the 1948 Italian Constitution, the Spanish of 1978, and the Brazilian of 1934, whose article 113, declared in the *caput* the right to property among the individual rights and guarantees, mentioning in the incise XVII:

> It is guaranteed the right of property, which shall not be exercised against the social or the collective interest, in the form determined in the Law. The expropriation due to public need or utility shall be in the terms of the Law, upon previous and

> justified indemnity. In case of imminent danger, such as war or internal commotion, the competent authorities can use the private property as far as the public good so requires, exempt the right to further compensation.

In Brazil, the Constitution of 1937 remained silent about the property social function. In turn, the 1946 Constitution inserted property in the article 147 among the principles of the economic and social order. Mello (1987, p. 40) affirms that the article 147 of the1946 Constitution, not only provides for the expropriation by social interest, but points to the property social direction " when the legislation ensure its fair distribution, seeking, more than the traditional equality before the law, the equality before the opportunity of access to property". The 1967 Constitution innovated providing in the article 157: "The economic order purpose is to realize the social justice, with basis on the principles as follows: [...] III- property social function."

The 1969 Constitutional Amendment n. 1 maintained similar provision in the article 160, III. Such provisions, however, although consistent with the best doctrine and with the new paradigm of the property linked to the social function, had little reflexes on the factual plan. Maybe due to the political moment, when the country faced the military dictatorship period, very distant from the democratic aspirations in whose context the property social function was created in other countries.

But, after all, what is "social function"? Defining social function is not an easy job. The word "function" has variable contents, both in the common and in the legal use. For Modugno (1969, p. 301), the word "function" would design "the fulfillment of a duty, of and assignment, of an obligation". Gama (2008) explains that the idea of social fucntion as instrument comes from the very etymology of the expression: "in Latin, the word *functio* is derived from the verb *fungor (functus sem, fungi*) which meaning is to fulfill something, to perform a duty or task, that is, fulfill a purpose, functionalize ".

According to Comparato (1986), the idea of function carries the notion of the power of giving a certain destiny to an object or to a legal relationship, linking them to certain purposes. Adding the adjective "social", this purpose would surpass the owner interest, which would have a power-duty, revealing its collective interest.

The doctrine has studied the social function, having already considerable number of scientific articles and relevant work about the

matter; however, so far there is no peaceful understanding about its precise content. Grau (1981) affirms that the expression "social function" is attributed by some, to Augusto Comte, by others, to Léon Duguit. St Basil, St Thomas Aquinas and Rousseau, however, have already used this expression. Grau (1981) mentions that, in 1889, Otto Von Gierke published a speech in Vienna entitled "The social mission of the Private Law" in which he indicated that "to the property should be imposed social duties". And, what about concerning the property environmental function? After exhausting research, it was possible to find out that little has been produced in order to determine content for the property environmental function.

Benjamin (2011, p. 11) affirms that "there are no studies about the environmental function, both in the national and in the alien Law, which led him to insert it in a wider context of systems, principles and regimes that rule the environmental Law, in the context of the discussion about its autonomy. For Benjamin (2011, p. 23), function would be "the activity ultimately directed to the protection of the interest of others, characterized by the global relevance, regime homogeneity and manifestation through a power-duty" ; in turn, to this author, environmental function, treats of the species of the gender function, and it is a legal phenomenon of recent manifestation, as, although the environmental phenomenon is previous to the man itself, its legal perception has only started to take form in the recent years, as result of the great transformations of the development process, that also reflect on the Law. Sant'Anna (2007, p. 156) defines the environmental function as:

> A set of activities to guarantee to everyone the constitutional right to enjoy a balanced and sustainable environment, in the search for a healthy and satisfactory quality of life, for the current and future generations.

The Colombia Constitution, after the Legislative Act 01, of 1999, says expressly in the article 58 that "The property is a social function that imply obligations. As such, it is inherent to it an ecological function"[10]. Thus,

10 The full text of the mentioned article 58 says as follows: "Se garantizan la propiedad privada y los demás derechos adquiridos con arreglo a las leyes civiles, los cuales no pueden ser desconocidos ni vulnerados por leyes posteriores. Cuando de la aplicación de una ley expedida por motivos de utilidad pública o interés social, resultare en conflicto los derechos de los particulares con la necesidad por ella reconocida, el interés privado deberá ceder al interés público o social. La propiedad es una función social que implica obligaciones. Como tal, le es inherente una función ecológica. El Estado protegerá y promoverá las formas asociativas y solidarias de propiedad. Por motivos de utilidad pública o interés social definidos por el legislador, podrá haber expropiación mediante sentencia judicial e indemnización previa. Esta se fijará consultando los intereses de la comunidad y

it is evident that the social function is gender, of which the environmental function is species.

In the Brazilian case, however, the Federal Constitution in force since 1988 declared the property right in the article 5th, XXII and in the incise XXIII established that "the property will fulfill its social function", within the title II that deals with "the rights and fundamental guarantees". The environmental function, in turn, would be corollary of the provision in the article 225, *caput* which stated that "everyone has the right to the ecologically balanced environment", setting in the § 1º the incumbencies of the Public Power in order to ensure the effectiveness of this right, among which those provided in the incise III, so that to define, all over the Federation units, territorial spaces and their components to be specially protected, no changes and suppression allowed except trough the Law, prohibited any use that may compromise the integrity of the attributes that justify its protection.

Thus, it is not clear in the Brazilian Constitution text, on the contrary to what occurs with the Colombia Constitution, if the social function is gender and environmental function, species. According to Ayala (2010) the obligation of defense of the environment and the property social function *condition* the forms of valuation of goods for the purpose of appropriation. Consequently, any appropriation relation must allow the fulfillment of the two distinct functions: one individual (property economic dimension), another collective (property socioenvironmental dimension). However, he warns that "these functions are not always imposed simultaneously".

Indeed, there are situations when the property social and environmental functions "go on a collision course". In the case of expropriation for the purposes of agrarian reform, for example, there are studies showing that the National Institute of Colonization and Agrarian Reform (Instituto Nacional de Colonização e Reforma Agrária – INCRA) is "generating settlements that frequently represent a social, economic and environmental liability", as affirmed Flávia Camargo de Araújo (2006, p.16) in her dissertation for Master in Sustainable Development of the Brasilia University "Agrarian Reform and Environmental Management: Agreememnts and Disagreementrs" [Mestrado em Desenvolvimento Sustentável da Universidade de Brasília - UnB "Reforma Agrária e Gestão

del afectado. En los casos que determine el legislador, dicha expropiación podrá adelantarse por vía administrativa, sujeta a posterior acción contenciosa-administrativa, incluso respecto del precio".

Ambiental: Encontros e Desencontros"][11], due to the non-observance of the environmental criteria as productivity indicators. In case, the expression property "socioenvironmental" function falls apart, as the environment is sacrificed in order to privilege family settlements in a disorderly and inadequate way.

Therefore, it is possible to affirm that the *environmental function* and the *social function* are different. This *social function* concerns with the use of the property in the social interest. That other function concerns the use of property in the interest of the environment Thus, if protecting the environment interests the whole society, one can conclude that the environmental function is also a social function. Then, again emerges the questioning: would the environmental function be species of the gender social function? This question will be answered in the light of the inductive method proposed by Aristotle.

4 THE PROPERTY ENVIRONMENTAL FUNCTION IN THE LIGHT OF ARISTOTLE INDUCTIVE-DEDUCTIVE METHOD: A CONCEPTUAL PROPOSAL

According to Ferreira (1986, p. 844), the word "gender" comes from the Latin *genus, eris,* and means "class whose extension divides into other classes, which, in relation to the first, are named species.". By extension, gender would also be the "set of species that present a certain number of common characters conventionally established" ["conjunto de espécies que apresentam certo número de caracteres comuns convencionalmente estabelecidos"][12]. In the legal aspect, the environmental function many times is seen as an "specialty", a specific aspect within the social function. And it was in this direction that the Plenary of the Federal Higher Court [Pleno do Supremo Tribunal Federal – STF], was placed in

11 According to information in the INCRA official site "the inclusion of the variable environmental in the shpere of the actions of creation and promotion of the sustainable development of the agrarian reform settlements indicate significant changes in the Incra way of action. This policy guiding elements are the respect to the environmental diversities, promotion of the rational and sustainable exploitation of the natural resources and the use of the license system as instrument of the settlements environmental management". The procedures were defined by the Resolution n. 289/2001, of the Environment National Council (Conselho Nacional do Meio Ambiente (Conama), which establishes the guidelines for the settlement projects environmental license aiming at the sustainable development and continuous improvement in the quality of life in the settlements. Available in: <http://www.incra.gov.br/meioambiente>. Access in: 08 mai. 2016.

12 The word "gender" has different meanings. I the characterization of the literary texts categories, gender is characterized by a specific socio-communicative function. These are not always easy to explain. The specie is defined and characterized only "by formal aspects of the linguistic structure (included superstructure) and surface and e/or by content aspects ". (TRAVÁGLIA, 2001, p. 5).

the judgment of the ADIn 2213-DF, published in the DJU of 23.04.2004, judge rappoteur Minister Celso de Mello, according is understood from the excerpt as follows:

> The right of property is not absolute, as on it weights a serious social mortgage, meaning that if non fulfilled its inherent social function (art. 5th., XXIII), the state intervention in the sphere of the private domain will be legitimize, observed, however, to this purpose, the limits, the forms and the procedures set in the Constitution of the Republic.
>
> The access to the land, the solution of the social conflicts, the rational and appropriate use of the rural property, the appropriate use of the available natural resources and the preservation of the environment are elements of the realization of the property social function.

In spite of this STF decision, however, it is necessary to clarify if the preservation of the environment is just so: object of the social function; or, in other words, it consists of an element of realization of the property social function. To investigate the legal nature of the property environmental function, it is necessary a method. In this stage of the research it was used the scientific method proposed by Aristotle, and which became known as inductive-deductive, according which the scientific investigation starts from the knowledge that certain events occur or that certain properties co-exist. Through the"induction" process these observations would lead to an explicative principle. Once set, this principle could, by deduction, go back to the particular observations from where it came first, or to other statements about the events or properties. Thus, in the scientific explanation there is a back-and-forth process, starting from the fact, ascending to the explanatory principles, and descending again to the fact.

Taking as basis a factual situation in which the need for agrarian reform puts in a collision course the interest in the family settlement of "landless", on one hand, and on the other hand the need of environmental protection of environmentally sensitive areas, as it is the case of the Pantanal[13], in the light of the Aristotelian method, a proposition could be formulated as follows :

13 The Pantanal, the largest floodplain in the world, with more than 110,000 km², brings together a mosaic of different environments and shelters a rich terrestrial and aquatic biota. The fragile balance of Pantanal ecosystems, defined by periodic flood dynamics, is being threatened by new trends in economic development. Traditional fishing and livestock models are being rapidly replaced by intensive exploitation, accompanied by deforestation and alteration of natural areas, (BRASIL. Ministério do Meio Ambiente, 2002).

> The property that fulfills the social function also fulfills the environmental function
> Property "x" fulfills the environmental function
> Therefore, property "x" fulfills the social function

This statement is true, even if the property "x" fulfills its environmental function, even if it is not being developed any productive activity there in the economic point of view, it will be fulfilling the function of preserving the environment which is a function that in a last analysis interests the whole society.

The two statements are named "premises" of inference, and the third is named "conclusion". This kind of reasoning is called deductive because it has the characteristic below: if the premises are true, then the conclusion will also be true. Advancing in the application of the inductive method, the propositions above could be formulated in another way, with the inversion of the premises, as follows:

> The property that fulfills the environmental function also fulfills the social function
> The property "x" fulfills the social function
> Therefore, the property "x" fulfills the environmental function

This second proposition seems also true. However, **there are properties that fulfill the social function, but do not fulfill the environmental**. In this model is included the "landless" family settlement without taking into account the areas of permanent preservation and the legal reserves, or environmentally fragile areas, as is the case of the Pantanal.

On the other hand, **there are properties that fulfill the environmental function, but does not fulfill the social function**. Among such hypothesis, it is possible to mention the Writ of Mandamus, [Mandado de Segurança MS 22164 / SP], filed by a landowner of the Pantanal, south of the State of Mato Grosso, against the Federal Union, in disagreement with the expropriation of his rural property for the purposes of the agrarian reform. In the *mandamus,* the Impetrant claimed not to have cultivated the area because it is located in the Mato Grosso marshland, defined in the article 225, § 4th of the Constitution as national heritage, reason for which the environmental function of this property would be met by maintaining its natural status, therefore the collectivity interest is the intact preservation of the site. This argument has not been accepted by the Judge

Rappoteur Minister Celso de Mello, who understood that the constitutional provision does not act as legal impediment to the Federal Government's own execution of expropriatory activity for social interest, aiming at the execution of projects that respect the environmental preservation. The judge rappoteur emphasized that the article 186, II of the Political Chart consists in the submission of the domain to the need for the owner to use adequately the available natural resources and to preserve the environment balance, under the penalty of, in case of disrespect of these charges, to suffer the expropriation-sanction referred to in the article 184 of the Basic Law. "

The Court (STF) decision was in the sense that it was up to this owner to carry out technical studies (at his own expenses) to define activities to enable the use of the natural resources available respecting the environment[14]. Such line of understanding presupposes a developmentalist vision, according to which the property social function (in the aspect of economic utility, as in the case of food production) would overlap the environmental function. It is evident that from the point of view of the environmental preservation, the non development of common economic activities in such a sensible area as the Mato Grosso Pantanal, suits best the environmental interests. It may not meet the social interest related to food production and to the direct beneficiaries of the ventures to be installed in that rural areas indicated by the so called "technical studies" recommended by the STF: the food products' and/or services consumers (as in the case of "ecological" tourist initiatives), the employees of these kind of business, the surrounding population benefited by the taxes generations, etc. These are the most common arguments when defending the economical entrepreneurism of the rural properties located in the Pantanal against the environmental preservation interest.

It is necessary to recognize that in the mandamus MS 22164 / SP the argument of the defense was correct: that property, not housing economic activities, served the environmental function. The Higher Court excused this argument, as if it expressed mere rhetoric exercise. It would rather be this way. But, indeed, the litigation overlooked the clash between the private property social function and environmental function, not yet faced by the Higher Court.

14 Such an understanding would be justified by the principle of the polluter payer, which according to Fiorillo (2006, p. 28) means that natural or legal persons must pay the costs of measures necessary for the elimination of contamination or to reduce it to the Limit set by standards or equivalent measures that ensure the quality of life

-.

The practical example now under study overturns the proposition formulated in the light of the Aristotelian light "the property that fulfills the environmental function also fulfills the social function", because there the property had fulfilled the environmental function, but not the social function. Anyway, as the well-publicized criticism by POPPER (2016, p. 1-16) that criticized the Aristotelian method affirming that the attempts to justify the science in logical terms referring to the induction, lead inevitably to the failure. Popper emphasized that the scientists do not work only accumulating observations about a given phenomenon, and then deriving generalizations from them. They also formulate hypothesis about the world nature, which not always occur from inductive generalizations. And then they must subject these hypothesis to rigorous testing, not to prove a particular theory (a form of induction), but to refute this theory.

The proof of something, according to Popper, is impossible logically. A single counterexample is sufficient to refute a generalization, when the proof would require the impossible task of document every instance of the phenomenon in question.. In other words, the experiments must be designed to falsify or refute the hypothesis under test and not to show the truth. This procedure, according to Popper, breaks the vicious cycle of the induction problem. Instead of being the science villain, the counterexample is precisely what the scientist should seek: it is the science trademark itself. Thus, so as the propositions formulated above are true, it is necessary not to be possible to formulate the "counterexample". The counterexamples presented refute the conclusion that the property that fulfills the environmental function also fulfills the social function.

Taking as basis the method proposed by Aristotle, and taking into account Popper observations, starting from the fact towards the explanatory principles, and going back again to the fact, the conclusion is that the environmental function, in the factual plan, is not to be confounded with the social function and, likewise, in the theoretical plan it is confirmed that we are in face of two distinct categories.

Indeed, not always the exercise of the social function or the "rational use" of the property is the best for the environment. There are situations in which "not to use it" may be the best to meet the environmental interest.

CONCLUSION

In order to analyze the content of the expression "environmental function", the research developed in this study used the inductive-deductive methodological exercise proposed by Aristotle, taking into account the counterpoint to the Aristotelian method formulated by Popper. From this intellective exercise resulted the conclusion that the property social function and environmental function, although having a common basis, have diverse contents, this one turned to the environment protection, the other turned to the resources generation (employment and income) and the food production.

Indeed, while the social function is concerned with the social and economical conditions of the human person and the collectivity, the environmental function is turned to the environment protection. Both are important and essential constituting ideals to be constructed by the Public Power and all the collectivity, from the action of the government, the civil society organizations and from each individual.

Therefore, it is not possible to agree with the view defended in a trivial way by the doctrine, and contained in some Court (STF) decisions, analyzed above, in the sense that the social function is gender of which the environmental function is species. In this article some counterexamples were presented to this statement, with the evidence that there is a number of factual situations in which the environmental interest will shock against the social interest. In these hypothesis, social function and environmental function will present diverse contents, revealing that the environmental function imply in guiding the exercise of the property right turned to the preservation of the environment as the first goal.

Thus, using the expression "property socioenvironmental function" will not always be the correct one, being applicable only in the hypothesis in which the social and environmental interests coincide. There are situations when these interests will be conflicting. Hence, under the conceptual aspect it will be better to understand the "property environment function "as performance or fulfillment of the purposes of conservation of the environment as a category that carries value in itself, independent of other duties linked to human interests.

REFERENCES

ALEXY, Robert. *Teoria dos direitos fundamentais*. Trad. Virgílio Afonso da Silva. São Paulo: Malheiros, 2008.

ARAÚJO, Flávia Camargo de. Reforma Agrária e Gestão Ambiental: Encontros e Desencontros. 2006. 242 f., il. Dissertação (Mestrado em Desenvolvimento Sustentável) Universidade de Brasília, Brasília, 2006. Disponível em: <http://repositorio.unb.br/handle/10482/2541>. Acesso em: 20 dez. 2016.

ARISTÓTELES (c. 350 a.C.), *Analíticos Posteriores.* In: Órganon. Trad. E. Bini, Edipro. São Paulo, 2005. Disponível em: <http://www.fflch.usp.br/df/opessoa/TCFC1-07-Aristoteles.pdf>. Acesso em: 28 out. 2016.

AYALA, Patryck de Araújo. Deveres ecológicos e regulamentação da atividade econômica na Constituição Brasileira. In: CANOTILHO, José Joaquim Gomes e LEITE, José Rubens Morato. *Direito constitucional ambiental brasileiro.* 3.ed. São Paulo: Saraiva, 2010.

BENJAMIN, Antonio Hermann de Vasconcelos**.** *Reflexões sobre a hipertrofia do direito de propriedade na tutela da reserva legal e das áreas de preservação permanente.* Postado em: 16 março 2011. Disponível em: <http://www.egov.ufsc.br/portal/conteudo/reflexoes-sobre-hipertrofia-do-direito-de-propriedade -na-tutela-da-reserva-legal-e-das-area>. Acesso em: 26 ago. 2016.

BENJAMIN, Antonio Herman de Vasconcellos. *Constitucionalização do Ambiente e Ecologização da Constituição Brasileira. In:* CANOTILHO, José Joaquim Gomes e LEITE, José Rubens Morato. Direito constitucional ambiental brasileiro. 3.ed. São Paulo: Saraiva, 2010.

BOBBIO, Norberto. *A era dos direitos.* Rio de Janeiro: Campus, 1992.

BRASIL. *Constituição da República Federativa do Brasil de 1988.* Disponível em: <http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm>. Acesso em: 20 nov. 2016.

BRASIL. Instituto Nacional de Colonização e Reforma Agrária. Disponível em: <http://www.incra.gov.br/meioambiente>Acesso em: 08 mai. 2016.

BRASIL. Ministério do Meio Ambiente. Conselho Nacional do Meio Ambiente (Conama). *Resolução nº 289/2001*.

BRASIL. Ministério do Meio Ambiente. Secretaria de Biodiversidade e Florestas. *Avaliação e identificação de áreas e ações prioritárias para a conservação, utilização sustentável e repartição dos benefícios da biodiversidade nos biomas brasileiros.* Brasília: MMA/SBF, 2002. Disponível em: <http://www.mma. gov.br/estruturas/chm/_arquivos/Bio5.pdf>. Acesso em: 26 out. 2016.

BRASIL. Supremo Tribunal Federal. *Julgamento da ADIn 2213-DF*, publicado no DJU de 23.04.2004. Disponível em: <http://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=AC&docID=347486>. Acesso em: 22 out. 2016.

BRASIL. Supremo Tribunal Federal. *Julgamento do Mandado de Segurança MS 22164 / SP,* publicado no DJU de 17-11-1995. Disponível em: <http://stf.jusbrasil.com.br/jurisprudencia/745049/mandado-de-seguranca-ms-22164-sp>. Acesso em: 20 out. 2016.

CALLIESS, Christian. *Rechtsstaat und Umweltstaat:* Zugleich ein Beitrag zur Grundrechtsdogmatikim Rahmen mehrpoliger Verfassungsverhältnisse. Tübingen: Mohr Siebeck, 2001.

CANARIS, Claus-Wilhelm. *Direitos fundamentais e direito privado.* Tradução de Ingo Wolfgang Sarlet e Paulo Mota Pinto. São Paulo: Almedina, 2009.

COLOMBIA, *Constitucion.* Disponível em: <http://www.corteconstitucional.gov.co/inicio/Constitucion%20politica%20de%20Colombia%20-%202015.pdf>. Acesso em: 22 jan. 2017.

CANOTILHO, José Joaquim Gomes; MOREIRA, Vital. *Constituição da República Portuguesa anotada.* 3.ed. Coimbra: Coimbra Ed., 1993.

COMPARATO, Fabio Konder. Função social da propriedade dos bens de produção. *Revista de Direito Mercantil, Industrial, Econômico e Financeiro,* v. 63. 1986.

DERANI, Cristiane. Meio ambiente ecologicamente equilibrado: direito fundamental e princípio da atividade econômica. *In:* FIGUEIREDO, Guilherme José de. *Temas de direito ambiental e urbanístico.* São Paulo: Max Limonad, 1988.

DEUTSCHLAND, *Grundgesetz für die Bundesrepublik Deutschland.* <http://www.gesetze-im-internet.de/bundesrecht/gg/gesamt.pdf>. Acesso em: 10 out. 2016.

DWORKIN, Ronald. *Levando os direitos a sério*. São Paulo: Livraria Martins, 2002.

ESPAÑA, *Constitución.* Viernes 29 de diciembre de 1978. Disponível em: <http://www.boe.es/boe/dias/1978/12/29/pdfs/A29313-29424.pdf>. Acesso em: 18 dez. 2016.

FERREIRA, Aurélio Buarque de Holanda. *Novo Dicionário Aurélio da Lingua Portuguesa.* Rio de Janeiro: Nova Fronteira. 1986.

FIORILLO, Celso Antonio Pacheco. *Curso de direito ambiental brasileiro*. 3.ed. São Paulo: Saraiva, 2006.

GAMA, Guilherme Calmon Nogueira da. *Função social no direito civil.* 2.ed. São Paulo: Atlas, 2008.

GIDDENS, Anthony. Risk and responsability. *Modern Law Review*, v. 62, n. 1, Jan. 1999.

GRAU, Eros Roberto. *Elementos de direito econômico*. São Paulo: Revista dos Tribunais, 1981.

HESSE, Konrad. *Elementos de direito constitucional da República Federal da Alemanha.* Tradução de Luíz Afonso Heck. Porto Alegre: Sergio Antonio Fabris Editor, 1998.

KANT, Immanuel. *Fundamentação da metafísica dos costumes*. Lisboa: Edições 70, [s/d], 2007. Disponível em: <https://professoredmarfilosofia.files.wordpress.com/2012/02/kante-fundamentacaodametafisicadoscostumes-trad-pauloquintela-edicoes70-

120p.pdf>. Acesso em: 23 jan. 2017.

KÄSSMAYER, Karin. *Apontamentos sobre a ética ambiental como fundamento do direito ambiental.* EOS: Revista jurídica da Faculdade de Direito/Faculdade Dom Bosco, Curitiba, v. 1, n. 4, jul./dez. 2008. Disponível em: <http://www.dombosco.com.br/faculdade/revista_direito/1edicao-2009/eos-4-2009.pdf>. Acesso em: 27 dez. 2016.

LIRA, Ricardo Pereira. *Elementos de direito urbanístico*. Rio de Janeiro: Renovar, 1997.

MELLO, Celso Antonio Bandeira de. Novos aspectos da função social da propriedade no Direito Público. *Revista de Direito Público*. São Paulo, n. 84, out./dez., 1987.

MILARÉ, Edis. *Direito do Ambiente*. 4. ed. rev., atual. e ampl.- São Paulo: Revista dos Tribunais, 2005.

MODUGNO, Franco. Funzione. In: *Enciclopedia del Diritto*. Varese: Giuffré, v. 18, 1969.
NIÑO, Carlos Santiago. *Derecho, moral y política:* una revisión de la teoría general del derecho.Barcelona: Editorial Ariel, S. A., 1994.

PRIEUR, Michel. *Droit de l'environnement*. 5.ed. Paris: Dalloz, 2004.

PIOVESAN, Flávia. *Direitos humanos e o direito constitucional internacional*. 3.ed. São Paulo: Max Limonad, 1997.

POPPER, Karl. Aristotele the roots of hecelianism. *The Open Society And Its Enemies.* London, v. II, 1945. George Routledge And Sons Limited. Disponível em: <https://archive.org/stream/ opensocietyandit033064mbp#page/n15/mode/2up>. Acesso em: 20 out. 2016.

RAPOSO, Mário. O direito ao ambiente como direito fundamental. In: *Centro de Estudos Judiciários, Textos, Ambiente*, Lisboa, 1994.

RETORTILLO, Lorenzo Martín. Regimen constitucional de los derechos fundamentales *in Derechos fundamentales y Constitución*. Madrid, Civitas,

1988.

RODOTÁ, Stefano. *Il terribile diritto: studi sulla proprietà privada*. Bolonha: Il Mulino, 1990.

SANT'ANNA, Mariana Senna. Planejamento urbano e qualidade de vida: da Constituição Federal ao Plano Diretor. In: DALLARI, Adilson de Abreu; DI SARNO, Daniela Campos Libório (Coord.). *Direito urbanístico e ambiental*. Belo Horizonte: Fórum, 2007.

SARLET, Ingo Wolfgang. *Direito constitucional ambiental*. 3.ed. São Paulo: Revista dos Tribunais, 2013.

SEM, Amartya. *Desenvolvimento como liberdade***.** Tradução de Laura Teixeira Mota. São Paulo: Companhia das Letras, 2000.

TRAVÁGLIA, Luiz Carlos. Da distinção entre tipos, gêneros e subtipos de textos. *Estudos lingüísticos*, São Paulo, v. 30, p. 1-6. (CD-ROM)

TRINDADE, Antônio Augusto Cançado. *Tratado de direito internacional dos direitos humanos***.** 2 ed. Porto Alegre: SAFE, v. I, 2003.

Artigo recebido em: 25/01/2017.
Artigo aceito em: 09/05/2017.

Como citar este artigo (ABNT):

ARAÚJO, Giselle Marques de. Função Ambiental da Propriedade: uma proposta conceitual. *Revista Veredas do Direito*, Belo Horizonte, v. 14, n. 28, p. 251-276, jan./abr. 2017. Disponível em: <http://www.domhelder.edu.br/revista/index.php/veredas/article/view/985>. Acesso em: dia mês. ano.