

## Public consultation, (Bio) ethics and democracy

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**ABSTRACT:** Public participation is a fundamental democratic mechanism to evaluate the quality of the decision-making process involving environmental licensing. The operation of public participation in environmental licensing may occur through direct or indirect means, indicating greater or less capacity for social accountability in the relationship between communities and enterprises that will produce environmental impacts that will affect these communities to a greater or lesser extent and scope. The institutional and political viability of paralyzing the voice of those affected by entrepreneurship in the environmental licensing process thus becomes much more than a democratic procedure, but a form of bioethical exercise in the relationship between social actors, the State and economic agents. The purpose of this proposal is to evaluate the extent to which public participation in environmental licensing regarding the Environmental Study of Sedimentary Area (EAAS) of the Sergipe-Alagoas/Jacuípe sea basin. The public consultation is a democratic mechanism for conflict environmental resolution, and it should be understood as an applied ethical bet on political action by recognizing that rights incorporated as human rights. For our eminently interdisciplinary aim, Political Science, Environmental Impact Assessment and Bioethics are fields that mediate this reflection and allow us to reflect the necessary procedural adjustments to an imperfect democratic mechanism.

**Keywords:** Public Participation; Environmental Licensing; Ethics. Democracy.

### Consulta pública, (Bio) ética e democracia

**Resumo:** A participação pública é um mecanismo democrático fundamental para avaliar a qualidade do processo decisório envolvendo o licenciamento ambiental. A operacionalização da participação pública no licenciamento ambiental pode ocorrer por meios diretos ou indiretos, indicando maior ou menor capacidade de responsabilidade social na relação entre comunidades e empreendimentos que produzirão impactos ambientais que afetarão essas comunidades em maior ou menor extensão e abrangência. A viabilidade institucional e política de paralisar a voz dos atingidos pelo empreendedorismo no processo de licenciamento ambiental torna-se, assim, muito mais do que um procedimento democrático, mas uma forma de exercício bioético na relação entre atores sociais, Estado e agentes econômicos. O objetivo desta proposta é avaliar em que medida a participação pública no licenciamento ambiental referente ao Estudo Ambiental de Área Sedimentar (EAAS) da bacia marítima Sergipe-Alagoas/Jacuípe. A consulta pública é um mecanismo democrático de resolução de conflitos ambientais, e deve ser entendida como uma aposta ética aplicada na ação política, reconhecendo que direitos incorporados como direitos humanos. Para nosso objetivo eminentemente interdisciplinar, a Ciência Política, a Avaliação de Impacto Ambiental e a Bioética são campos que mediam essa reflexão e nos permitem refletir os ajustes processuais necessários a um mecanismo democrático imperfeito.

**Palavras-chave:** Participação Pública; Licenciamento Ambiental; Ética; Democracia.

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## Introduction

In this article we present the challenge of tracing the conceptual connections that allow us to conduct an interdisciplinary approach based on empirical issues involving ethical and political dilemmas in the relationship between society and the environment, since we take politics and especially the democratic game as the conducive environment so that interdependence involving the environment and human rights is mediated by Bioethics, an epistemic field that we take as eminently political, because of its normative burden *per se*.

This observation stems from the very characteristics of Bioethics, which arose from the field of Applied Ethics and which, when developing and creating epistemes of its own, explored conceptually themes beyond health (Potter, 1971) and which surpassed the sphere of the individual from a clinical perspective, for the gain of their degree of inter and multidisciplinary, reached the community focus, resulting in gains and tensions to the field. In addition, in sizing the bioethical debate at the community level, with clear interfaces between environment and society, we have the space to base the reflection on political action, legitimized by democracy and its role in environmental safeguard. The purpose of this proposal is to evaluate the extent to which public participation in environmental licensing regarding the Environmental Study of Sedimentary Area (EAAS) of the Sergipe-Alagoas/Jacuípe sea basin.

## Bioethics and Democracy: What is the place of sustainable development?

Democratic rules substantially affect the play of power in the decision-making process, greater participation allows the affected populations to negotiate or veto the enterprises, and less participation only gives a false seal to the process. Democratic rules help in the dispersal of control over the decision-making process, allowing a greater degree of participation in processes that will affect communities and ecosystems.

In addition, in dealing with participation, we used Robert Dahl's (2005) reflection on the two main axes to identify a regime as democratic: competition and participation. Although it is the latter that we care about for this environmental bioethical reflection, it is imperative that some assumptions are presented clearly to better understand not only the political importance of participation but its bioethical importance for safeguarding environmental goods and services.

Robert Dahl in *Poliarquia (polyarchy)* (2005) recognizes that in dealing with democracy we treat for the sake of truth as a mere approximation of the democratic ideal. Robert Dahl believes that a fundamental prerogative to think of democracy is social plurality, without which the chances of democratic consolidation are very limited. For the democracy theorist, economic development contributes to broadening social diversity (from an economic and political point of view), which would result in a democratic expansion through competition based on freedom of organization and expression. Here we have again the idea of competition, but it is not from her that we lend the principle (although we recognize it in its importance for the maintenance of the democratic game), but of participation.

When we enter into an imbalance between competition and participation, the channels of access to political institutions by minorities, for example, are curtailed. In the end, what we have left is an ethical problem of public participation. Given a governmental agenda that impresses affecting political decisions on territories belonging to minorities without them having been heard, we have there the fracture of one of the most important premises of modern democracy and, in the case; we propose reflection, a need for paradigmatic change.

Junges (2014) stated that Ethics and its Bioethical variant brings us to the ecological debate and gives us inescapable issues to the subjects of ethical consideration. And we believe that such issues concern, in particular, ideas such as development and development, far from being inclusive, used and abused in government discourses that promise changes through the extraction of natural resources without, however, accounting for the environmental and social costs of these promises, refuting (often at all) that communities impacted by works of great impact are heard, removing from them the fundamental political right that sediments the democratic regime that is public participation based on civil and political liberties. Political action in this sense is to act ethically.

Democracy, from this consideration, has a positive and significant effect on the protection of natural resources, but to what extent does public participation in decision-making processes involving human action on the environment be based on bioethical parameters? In addition, if not, what prevents this (re) approximation?

Given this observation we share, we begin the road map to answer this question with the Universal Declaration of Bioethics and Human Rights (DUBDH). Especially in its article 17 we have the consolidation of the interdependence between human beings and the biotic environment, but this observation is amplified to the extent that the access and the adequate use of biotic resources respects the traditional knowledge, respect that is supported in the traditional populations (tribal peoples, indigenous populations, riverine people, etc.) have found the balance between the use and conservation of environmental and ecosystem goods and services.

We believe that DUBDH legitimizes the (bio) ethical and political premise that guides this reflection: only through democratic participation, understood here as a human right, is it possible that ethically the environment is protected and conserved for future generations. Human and not human. In the next topic, we go deeper into the reflection on Political Rights as Human Rights.

### **Participation as Political Right and as a Premise of Human Rights**

Reflecting the idea of participation in state decisions, one can find inspiration in Hannah Arendt's political philosophy. In the essay on the promises of politics, Arendt (2008, p.147) asserts that politics from the outset "organizes the absolutely different, in view of their relative equality and in contraposition to their relative differences". The organization of our interests, expectations, needs etc. therefore depends on political action. Whoever is born to political action, according to the philosopher, is born a second time.

If we take this notion of "being born for political action" and launching it based on what we call the Democratic Rule of Law, we can reach two important points. First, political action is a faculty, since it is necessary to "be born" for the activity of making decisions that aim at the collective organization. Second, the State must ensure that, once the desire to act for political organization has been taken on itself, there is equality and means of effecting political action. In this sense, political action can be understood as participation.

It is worth mentioning that when talking about political action as a faculty, one has in mind countries like Brazil that have made participation compulsory voting for people between the ages of 18 and 70. Here, a formal "birth" for political action is envisaged. In fact, if the manifestation of political action were based exclusively on the acts of voting, we would have a rather fragile conception, given the fragilities that representative democracy has presented. Lobby, purchase of election results, prevalence of economic interest etc. are some of the problems that we can point out. Of course, political action must be understood as something beyond the classical notion of citizenship.

In the language of the generational (or dimensional) theory of fundamental rights, participation is guaranteed by the protection of freedoms and, consequently, by the limitation of the intervention of States on the many possible freedoms (sexual, thought, expression, locomotion, religious etc.). Here we are talking about the first-generation rights (civil and political rights), also known as negative rights due to the omission they impose on the State. The smaller the state action on these rights, the greater will be the realization of the freedoms attached to them.

With the help of the International Covenant on Civil and Political Rights (1966), it is possible to affirm that political rights are linked to the self-determination of peoples. The right to freely determine political status is an important guarantee for the legitimacy of the state. Implicitly, the international legal duty of non-intervention and non-interference arises from this guarantee. These duties are launched in international society and are aimed at inter-state relations, since they prohibit conduct that means intervention in the territory of another State or interference in its political organization.

The International Covenant on Civil and Political Rights contains minimum points that may be listed among the possible manifestations of political action: a) to participate in the conduct of public affairs, directly or through freely chosen representatives; b) to vote and to be elected in regular, authentic elections held by universal and equal suffrage and by secret ballot, guaranteeing the expression of the will of the voters, and c) having access, under general conditions of equality, to the public functions of their country article 25). Faced with a minimal outline that identifies the State's fields of action (or even withdrawal) in guaranteeing political

rights, a democratic space conducive to full political action is built. Political rights are aimed at achieving the common.

In Jullien (2008), the common corresponds to the space in which we are part or we wish to be part, space that divides with the other and in which we all participate. In other words, Jullien portrays Arendt's political action.

The common is something that divides and participates (action). Therefore, the common can only progressively legitimize itself, from the simplest nuclei (familiar, local) to the most complex (international), deferentially of the concept of universal that brings extension as its own complexion. The extension of the common is gradual. The common is realized in matters while the universal engenders its abstraction out of the nature of the thing. Therefore, both have as their essential difference the fact that the ordinary is realized within the thing and the universal is later to the thing.

The denial of participation lies in the idea of assimilation Arendt. Non-assimilation means denial of the possibility of shared human social life. However, for the fullness of political action, it is necessary that those actors be in an equal position. The performance of different beings, in an equal position, in the public spaces to create common mechanisms of living is the second birth of the human being.

### **Democracy, Bioethics and Environmental Impact Assessment**

According to Sánchez (2013), public participation is one of the most important steps in the evaluation of environmental impacts, due to the significant potential that the ventures have for impacting the environmental resources (either affecting, degrading or consuming them) needed by the communities located in the areas directly affected or in the areas of direct and indirect influence of the enterprise.

According to Webler and Renn (1995), public participation can take place on two grounds: for an ethical reason that would incorporate public participation as a fundamental mechanism of the democratic game and, on the other hand, a reason of eminently functional character, given the greater participation, more legitimacy to the environmental licensing process, reducing the political cost in decision making.

The specialized literature on EIA indicates that the public consultation allows the improvement of the decisions in environmental impact assessment through the possibility of the impacted community influence the results and legitimize the decision process, disarming a greater local resistance to the enterprise (Sánchez, 2013). However, it is also important to reinforce, there is resistance not only from economic agents who seek to implement socially and environmentally impacting ventures, but also from public institutions that cancel the viability of the enterprise.

There is no development with the crushing of the founding freedoms of the population, especially of the minorities that often fail to participate more effectively in the national democratic process due to lack of representation. Development without freedom is a development short of its founding proposal.

Amartya Sen has long been demonstrating that development depends on the realization of human capacities and the extermination of deprivations to the freedoms most dear to humans (2000). The relationship between the exploitation of land, perceived as the main means for economic growth, and the search for development becomes more complex in the face of the rights of the original peoples who inhabit the areas coveted by their natural wealth. There lies the bioethical space to interpose with the developmental discourse unrelated to the environmental and social costs that it implies.

As stated at the beginning of the article, by involving a multidisciplinary theme such as "public participation in the political processes involving the production of environmental impacts" by an interdisciplinary path adding fields such as Environmental Impact Assessment, Human Rights and Bioethics, we do nothing but the merit lies in facing the challenge posed by the Potter Bioethics which rightly unifies the dozens of scientific disciplines with the aim of reflecting and preventing the environmental catastrophes that were coming (and continue to be produced) in the name of development, many times.

As we have already noted, the merit of Potter's Bioethics was to bequeath to visualize the ethical debate beyond the technicality surrounding clinical research, removing the seal of epistemic exclusivity of the Health Sciences on the development and application of Bioethics.

Bioethical pluralism has brought about the re-politicization of bioethics. There is no way to repolitize it by seeking to think of the inequality in access to the environmental goods and services that an ethnic community enjoys being excluded from access and / or suffer from various kinds of violence that are so common to cases involving the environmental licensing of major works (hydroelectric, mining, highways, railways, etc.).

Promote or deny the access of communities to environmental goods and services or even cancel the refusal that an enterprise such as mining in their territories is a political choice that is also ethical.

There is no way to relegate the ethical debate on development costs without bringing Potter's Bioethics (1971). From the Bioethics of Potter it is possible to characterize ethically the dimension of the socio-environmental impacts of the economic activities through the two questions "to what extent the public participation in the decision-making processes involving the human action on the environment is based on bioethical parameters? In addition, if not, what prevents this (re) approximation?"

It is common to repeat (exhaustive disclosure, truth be told) terms such as "sustainable development" or "sustainability" in official government documents, in journalistic matters, scientific work and, in general, on social networks on the Internet. This widespread disclosure did not necessarily bring about a broad, concatenated, and cohesive scientific and organizational agenda. On the contrary. When we treat public participation as a democratic mechanism in environmental licensing, we consider it as an ethical and political bet on applied bioethics, which brings with it bioethical action only configured in political action by recognizing that political rights are incorporated as human rights and, for our purposes, bioethics is the field that mediates this thinking.

As we reflect on the convergence of themes involving the relationship between environment and society, human rights, democracy, and ethics in this article, we have made a return to the principles of bioethics. In reflecting on Applied Ethics and taking it forward to the constitution of a field such as Bioethics, Potter sought to impress a character involving the environmental dimension to the (bio) ethical debate. It was not surprising that the development of Bioethics, dominated by reflections involving the exclusivity of the Health Sciences, removed the ecological and social character proposed by Potter and as Junges and Zoboli (2012) observed, the ethical problems were reduced to the relations between doctor and patient or researcher with the research subject.

Our intention was to produce a reflection that would aid in the re-approximation of this environmental character of Bioethics to think about the democratic experience involving human rights in scenarios where political rights are reduced, here scaled especially in the overwhelming political reality that sets an exclusive development agenda and that can only be rescued by political action, and, for us, that must be mediated by an intervention, environmentally and socially related bioethics.

### **The importance of the participation of artisanal fishermen in decisions**

Artisanal fishermen are part of the context of popular participation in environmental licensing, as they are members of traditional communities that have been impacted by human intervention, compromising their territory, their identity, and their livelihood.

These social actors carry important cultural traits, having strong interaction with the natural environment in which they live, as they extract their livelihood and the support of their family, making them holders of knowledge transmitted through generations, which gives them their own identity, in addition to constitute an important collection for society, insofar as a large part of this knowledge can benefit it.

It so happens that this population has suffered strong impacts caused by human action, such as predatory tourism, real estate speculation, pollution of the seas, rivers and lakes and has not reacted, especially given the lack of opportunity to participate in the main political decisions that affect it.

In Brazil, on the coast of the State of Alagoas, it has been possible to observe, for some time, these impacts, mainly resulting from the environmental destruction caused by human activity, for example: inadequate navigation that damages the coral reef ecosystems that are important fishing sources, predatory fishing, especially of species of high economic value, such as lobster and octopus, which are increasingly being captured and sold in very small sizes, smaller than allowed by law, and disorderly tourism that provides trampling in the regions of the reef shelf when they are exposed at low tides, mainly due to the large number of people in certain places (Correia & Sovierzoski, 2005).

The Mundaú/Manguaba lagoon complex is one of the most impacted, as it is located in a context where there is a large concentration of population, including the capital Maceió, located on the banks of Lagoon Mundaú, which receives a large part of untreated domestic sewage and still subjected to deforestation and the release of various types of waste provided by the industrial centers of the municipalities of Maceió and Marechal Deodoro and by the sugar agribusinesses that drastically alter the water quality of this complex, with *phytoplanktonic* blooms commonly known locally as “verdete”, the which lead to drastic environmental changes, mainly with a reduction in the concentration of oxygen in the water, with the most serious consequences being the reduction in the amount of fish, due to various problems of fish and invertebrate mortality (Correia & Sovierzoski, 2005).

In the city of Maceió, huge vertical constructions (which are even authorized by law) along its seafont cause a series of impacts, including pollution, with few beaches that are preserved, including being highlighted that there are beaches that “already are being avoided by tourists because of traffic, damage to the natural landscape and pollution” (Krell, 2008).

Added to this scenario are the seaside summerhouses, without respecting the retreat of the marine land, which mostly belong to people of high purchasing power who are accused of not allowing fishermen to use the beach to place your fishing equipment, positioning themselves as owners also in front of their house (Ribeiro, 2017).

The issue of fish reduction and the issue of environmental degradation, for example, is in the words of fishermen from Praia de Ipioca-AL, who rely not only on the amount of fish caught, but also on the identification of the types of fish they fished and that today they no longer fish, with reports of a reduction in the number of fish and possible causes (Toledo, 2012), among them river pollution and environmental degradation with the use of chemical elements such as chlorine and poison and harmful artifacts (bombs) as described by the fisherman Mariano:

- If I put chlorine in an octopus hole here, another one never goes in there, I take it out with a harpoon or with a bugger, with three, four days, there's another one in the hole, another one comes back in the hole, and with chlorine there's even more, finish with the stone...because the smell never leaves (Ribeiro, 2017).

The fisherman's speech about the Maceio neighborhood of Ipioca is in line with data collected in a survey carried out with fishermen in Jaraguá, another neighborhood in Maceió, showing that there is illegal fishing during a period prohibited by law, as well as a market A black man who understands a supply and a demand that is willing to pay more to consume the fish, even knowing that its sale is prohibited (Almeida et al., 2012).

At Praia do Francês, located in the Alagoas municipality of Marechal Deodoro, transformations were seen in a fishing village, where the tourism industry has intensified, causing strong changes in the forms of inclusion/exclusion, which, on the one hand, brought positive aspects, as they included improvements such as water, electricity, pavement, transport, on the other hand, they brought negative aspects, as Oliveira reports:

– Tourism brought destruction according to everyone. This was lived differently; for some, more intensely than for others. This destruction is permeated by suffering, for whom nature has a symbiotic quality and is a fundamental element of the aesthetics of existence and survival. The older generation, which enjoys less, expresses the suffering caused by the loss of identity, customs, work as an objectification of itself, community relations, and the power of action (helplessness)”. (Oliveira, 1998).

On the other hand, the intense occupation of the northern coast of Alagoas, also a result of pressure from civil construction companies to erect tall buildings, reflects the privatization of the territory of fishermen, generating a direct impact on the environment in which they live due to the large quantity sewage into the sea, in addition to visual and traffic pollution (Krell, 2008).

In addition, the dissolution of the fishermen's tradition can be seen through processes including the dispute over the territory of water and fish with other users, triggering changes in the ecosystem, not to say that they reframe the territory as a “safety area” and make it impossible for artisanal fishing to remain in the use of the place to revitalize collective identity. The construction of the Xingó dam, in the Lower São Francisco region of Alagoas, portrays this scenario well, as it provided a drastic reduction in the volume of fish catches, causing a change in the river level, affecting the quality of life of fishermen artisans that have in fishing, not

only a productive activity, but also a source of food and leisure for their family, as shown in the speech of the 55-year-old fisherman Manuel Elias:

We, who have always been a fisherman, all head and father of a family, are all living adrift, in need. How do we survive further on? Some of them are living off the government's help and the others have to come. The fashion now is for people to raise fish, give it a shot at the fish... where you've seen it. It's the end of the World. (Peixoto, 2013).

Veras (2015) notes that the existence of lavish national legislation that formally aims to protect artisanal fishermen does not reach its cultural aspects, not effectively guaranteeing the right of these social actors to preserve their traditions, since the legal dictates are practically enforced, for the promotion of production and consumption and concludes:

The issue concerns not the lack of legal provisions for the protection of artisanal fishermen — since the Constitution guarantees it and several legal provisions contemplate it (although predominantly in its economic aspect) — but the implementation of legal instruments that make them effective, which it is possible through actions of the Judiciary in the sense of issuing decisions that recognize the need for the preservation of cultural assets (such as the one issued by the Superior Court of Justice in the case involving *quilombolas*), and to urge the Government to comply with the constitutionally established cultural protection, promoting public policies of education and inspection of cultural assets and encouraging the preservation of traditions, way of life, memory and natural resources necessary for their survival.

The public consultation on Environmental Licensing, established in Law 6,938/81, takes place at the stage of obtaining the prior license, although, given the entrepreneur's accountability to the licensing body, it is possible to recur to other public consultations in the Environmental license stages, in operation and installation.

To illustrate the conditions for restricting public participation in the environmental licensing process between 2018 and 2020, we have the Public Consultation regarding the Environmental Study of Sedimentary Area (EAAS) of the Sergipe-Alagoas/Jacuípe maritime basin organized by the National Petroleum Agency, Natural Gas and Biofuels (ANP), as an example (Brazil, 2022).

In order to comply with the condition of public consultation in the environmental licensing of high-impact projects, the ANP approved the realization of the Public Consultation, divided into four face-to-face meetings, the ANP selected the cities of Salvador (on March 2, 2020), Aracaju (on March 4, 2020), Maceio (on March 6, 2020) and Recife (on March 10, 2020), none, however, in person in protected areas in directly affected areas or in area of direct influence in areas for exploration. In all, 39 municipalities were considered in the area of strategic influence established in the Environmental Study of the Sedimentary Area (EAAS) affecting conservation units such as the Santa Isabel Biological Reserve (REBIO) in Sergipe or the Environmental Preservation Area (APA) of Piaçabuçu in the estuary of the São Francisco River in the border zone between Alagoas and Sergipe.

In the same EAAS, it was reported that public consultations, carried out over the internet or in person, generated 171 contributions between non-governmental organizations, consulting companies, universities, government institutions, representatives of the oil and gas industry, community associations and individuals.

When analyzing the profile of the participants of the consultations carried out to support the strategic planning for the exploration of the maritime sedimentary basin of Sergipe-Alagoas/Jacuípe, there is minimal participation of fishermen's associations, with the predominance of demands from representatives of the oil and gas industry and government institutions such as ICMBio. There is a record of the participation of *Associação Povoado Curuacha Quilombo de Sergipe*, which, in the public consultation carried out, demands the inclusion of 14 riverside communities that live specifically from fishing in Estância, Sergipe. This demand, centered on the regional socio-environmental diagnosis, was not met in the EAAS because the diagnosis in the Identification and Delimitation Technical Report and in the list of quilombola communities certified by the Palmares Cultural Foundation in 2018, which would not contemplate, in according to the ANP, a census of riverside communities.

The Public Consultation to EAAS as an essential institutional activity for environmental licensing formally met the legal requirement to obtain the environmental license, however, the conditions of inclusion

and voice to the various actors involved in this process are not the same (consultations carried out only in the capitals of the affected States or by internet, reducing the potential participation of fishermen, for example), which implies a verticalization of access to environmental licensing. Understanding that democracy is a system of political interactions, the reduced inclusiveness in public participation is an indicator of the fragility of the very democratization of environmental licensing.

According to this scenario, it is possible to say that artisanal fishermen are inserted in a socio-environmental context permeated by interests, notably of an economic nature, that are not consistent with the preservation of their culture and going against their interests. They do not have the opportunity to participate effectively in the

**Table 1 – Profile of Participants in the Public Consultation involving the Environmental Study of the Sedimentary Area (EAAS)**

Sector	Institution/Name	Total Quantitative Amendment Proposals	Result of Proposed Amendments			
			Fully accepted	Partially Accepted	Clarifications Provided	Not Accepted
Government Institution	Chico Mendes Institute for Biodiversity Conservation (ICMBio)	42	16	5	18	03
Association	Curuacha Quilombo Village Association	01	-	-	01	-
Universities	Federal University of Alagoas/Federal University of Sergipe/ Federal University of Pernambuco	03	02	01	-	-
Oil & Gas Industry	Brazilian Institute of Oil, Gas and Biofuels	116	58	16	16	26
Consulting Company	Company Ambientec - SE/ Ecoassociados	02	01	01	-	-
Non-Governmental Organization	Biota Institute of Conservation/ Delta Turtles Institute	05	05	-	-	-

**Source:** Prepared by the authors from an environmental study of sedimentary area: sedimentary sea basin of Sergipe-Alagoas/Jacuípe (2020).

decisions that affect their way of life. It is possible to observe in Table 1 the profile of participants in the Public Consultation involving the Environmental Study of the Sedimentary Area (EAAS).

Public participation is an important democratic indicator, therefore. In 2014, through Decree no. 8,243, the National Social Participation Policy (PNPS) and the National Social Participation System (SNPS) were established in Brazil.

According to its general guidelines (Article 3) the National Policy for Social Participation was based on (I) recognition of social participation as a citizen's right and expression of his or her autonomy; (II) complementarity, transversality and integration between mechanisms and instances of representative, participatory and direct democracy; (III) solidarity, cooperation and respect for the diversity of ethnicity, race, culture, generation, origin, sex, sexual orientation, religion and social, economic or disability condition, for the construction of values of citizenship and social inclusion; (IV) the right to information, transparency and social control in



public actions, using simple and objective language, considering the characteristics and language of the target population; (V) valuing education for active citizenship; (VI) the autonomy, free functioning and independence of civil society organizations, e. and finally (VII) the expansion of social control mechanisms.

This goal of consolidating social participation as a method of government was, without a doubt, a fundamental step on a more ethical and more democratic path. However, in April 2019, Decree 9,759 extinguished the National Social Participation Policy (PNPS), the National Social Participation System (SNPS) in Brazil and about 650 federal councils. This decree became known as the “super revocation” of the Jair Bolsonaro government. In it, collegiate bodies of the direct federal public administration, autarchic and foundational were extinct, which include groups such as committees and commissions that had been established by decree, normative act inferior to the decree and act of another collegiate. These revoked bodies worked with government and civil society representatives in order to create, execute and monitor the actions of public and state bodies.

In environmental matters, the Brazilian Forum on Climate Change (FBMC), the National Plan for the Recovery of Native Vegetation (Planaveg) and its respective Commission (Conaveg), the National Biodiversity Commission (Conabio) and the National Forestry Commission were extinguished. (Conaflor), for example. The National Environment Council (Conama), the Genetic Heritage Management Council (CGen) and the Management Committee of the National Fund on Climate Change (FNMC) were not extinguished only because they were instituted by law (and not by decree or lower normative act).

## Final Remarks

The mechanisms that establish the forms of popular participation are fundamental guarantees. The voice of the population affected by enterprises, mining or even tourism is more than a requirement to measure democratic functioning. It is above all an ethical criterion.

In the analyzed case of the Public Consultation regarding the Environmental Study of Sedimentary Area (EAAS) of the Sergipe-Alagoas/Jacuípe sea basin, it is possible to observe that the environmental licensing was formally complied with the legal requirement to obtain the environmental license; however, the ethical aspects were highlighted. In this case, the conditions of inclusion and voice to the various actors involved in this process were not the same. The procedure generated gaps and inequality among the actors involved, as the consultations were carried out only in the capitals of the affected states or using the internet, reducing the potential participation of fishermen, for example. This verticalization of access to environmental licensing affected public participation in licensing.

The less democratic participation and control, the greater the chances that it will prevail in licensed enterprises a bias of performance with little accountability, which can include contributing to the judicialization of environmental licensing procedures. At the end of the day, there is a problem of access and information asymmetry involving all economic, social, and political actors involved in the political scenario of the environmental licensing. For example, the information coming from the impacts foreseen by the oil and gas exploration activity comes from the agent that demands the environmental license, in the case analyzed in the article it was the National Agency of Petroleum Natural Gas, which refers to the impacted communities, depending on the legislation in the country, an “accessible language” report informing the positive and negative impacts and adjusted compensations between the company and the government. To what extent was the voice of fishing communities exercised as a bioethical presupposition in the licensing process? In fact, the query format favored an environment of monologues between the parties involved, which further harmed the communities to be impacted, without a substantial presence in public hearings, which reinforces the asymmetry of power involving the oil and gas industry, with a high presence in the hearings, and fishing communities in the States delimited for the exploration of oil and gas.

The result in public hearing environments is, on the one hand, community leaders, often squeezed between the development discourse and the community insecurity derived from the accumulation of lived and heard experiences of oil spills on the marine coast, affecting local biodiversity and livelihoods for fishing communities, ending up undermining confidence in the environmental licensing itself. More democracy in environmental licensing matters insofar as it allows the exercise of voice to those impacted by high socio-

environmental risk ventures, but it is imperative that the exercise of voice in public hearings, as a bioethical guarantee of State protection, is formally inclusive in access to this right and not just procedural.

Brazil has gained institutional reinforcement in recent decades regarding actors linked to the protection of collective rights. Oftentimes, the *modus operandi* of exercising this guardianship is far removed from the reality of people affected by unsustainable development projects. However, as in the case of the revocation of the popular participation committees, in the Bolsonaro's government, these guarantees are at constant risk, especially in the environmental area.

Prior consultation is therefore a democratic conflict resolution mechanism and is present in many Latin American countries. It must be considered an ethical path applied to political action through the recognition that rights are embodied as human rights. It cannot be excluded from the environmental licensing process. The absence of popular participation is a path to decisions that do not comply with ethics. On the other hand, the presence of popular participation is a good indicator to perceive democracy and ethical respect for human rights by the State.

## References

- ALMEIDA, R. S. de, PONTES, A. de A., and SANTOS, C. J. S. (2012). Complexa tessitura da cadeia produtiva da pesca artesanal na comunidade Vila dos Pescadores de Jaraguá, Maceió-AL; In: I Seminário Nacional de Geoecologia e Planejamento Territorial e IV Seminário de Geoplan, Sergipe.
- ARENDT, H. A promessa da política. (2008). Organização e introdução de Jerome Kohn. Tradução de Pedro Jorgensen Jr. Rio de Janeiro, Difel, p. 147.
- BRAZIL (2022). Estudo Ambiental de Área Sedimentar (EAAS) das bacias sedimentares marítimas de Sergipe-Alagoas e Jacuípe. Available at: <https://www.gov.br/anp/pt-br/assuntos/exploracao-e-producao-de-oleo-e-gas/seguranca-operacional-e-meio-ambiente/estudo-ambiental-de-area-sedimentar-de-sergipe-alagoas-e-jacuipe>. Access in: 14/09/2022.
- CORREIA, M. D., and SOVIERZOSKI, H. H. (2005). Ecossistemas marinhos: recifes, praias e manguezais. Maceió: EDUFAL.
- DAHL, R. (2005). Poliarquia: participação e oposição. São Paulo, Editora da Universidade de São Paulo.
- JUNGES, J. R. (2014). Bioética e Meio Ambiente num contexto de América Latina. *Revista RedBioética/UNESCO*, 5(1/II): pp. 13-19.
- JUNGES JR, ZOBOLI ELC. (2012). Bioética e saúde coletiva: convergências epistemológicas. *Cienc Saude Colet.*; 17(4):1049-60.
- JULLIEN, F. (2008). De l'universel: de l'uniforme, du commun et du dialogue entre les cultures. Paris, Fayard.
- KRELL, A. J. (2008). Desenvolvimento sustentável às avessas nas praias de Maceió-AL: a liberação de "espigões" pelo novo código de urbanismo e edificações. Maceió: EDUFAL.
- OLIVEIRA, A. A. S. (1998). Turismo e comunidade: a configuração do sofrimento psicossocial em um povoado de pescadores. (186 p.). Dissertação, Mestrado em Psicologia Social, Pontifícia Universidade Católica de São Paulo, São Paulo.
- PEIXOTO, A. C. B. (2013). Pescador de ilusões: o trabalho da pesca artesanal e a sustentabilidade do desenvolvimento em comunidades pesqueiras nos municípios de Pão de Açúcar e Olho D'Água do Casado no Baixo São Francisco alagoano. Maceio, poligraf.
- POTTER, V. R. (1971). *Bioethics: bridge to the future*. EnglewoodCliffs: Prentice-Hall.
- RIBEIRO, C. D. M. (2017). Bioética, pesquisa qualitativa e equilíbrio reflexivo. *Rev. bioét.* (Impr.). 2017; 25 (1): 44-51 <http://dx.doi.org/10.1590/1983-80422017251165>
- SEN, A. (2000). *Desenvolvimento como liberdade*. São Paulo: Companhia das Letras.
- SÁNCHEZ, L. E. (2013). Development of Environmental Impact Assessment in Brazil. *UVP Report*, v. 27, p. 193-200.
- TOLEDO, R. F. de. (2012). Sentidos da pesca e a pesca dos sentidos um estudo psicossocial para compreensão do sumiço dos peixes da pesca de curral em Ipioca-Maceió-AL. *Rev. de Estudos Universitários*, Sorocaba (SP), 38(1): pp. 191-195, June.
- VERAS, G.M. Pescadores artesanais marítimos de Alagoas: o papel do direito na busca da sustentabilidade. Maceió-AL, EDUFAL, 2015 p. 237/238.
- WEBLER, T., and RENN, O. (1995). A brief primer on participation: philosophy and practice. In: Renn, O., Webler, T., and Wiedemann, P. (org.). *Fairness and competence in citizen participation*. Dordrecht, Kluwer, (pp. 17-33).

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