



Artigo

**Environmental Law and Sustainable Tourism:
critical analysis between environmental ethics and interests
in relation to non-human animal life**

*Direito Ambiental e Turismo Sustentável:
análise crítica entre a ética ambiental e interesses frente à vida
animal não-humana*

*Derecho Ambiental y Turismo Sustentable:
análisis crítica entre la ética ambiental e intereses frente a la
vida animal no-humana*

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Abstract

This study aims to investigate the exploitation of animal life in tourism observed in certain tourist destinations, such as Jenipabu/RN, which uses dromedaries from the Canary Islands in ethical mismatch. As observed hypotheses, tourism as an economic activity does not share the parameters associated with the preservation of life and sustainability and the use of animals in tourism comes to constitute the reproduction of cases related to the exploitation and violation of animal rights, non-human lives. It is analyzed the evaluation of tourism development of a destination that uses nonhuman life in this activity in certain regions of Brazil. Through exploratory research and qualitative method, it investigates the bibliography, original documentation and articles that address sustainability parameters in Brazilian Environmental Law and tourism, through which it was diagnosed a sustainable development mean for the sector, since this activity tends to reach a factor of preservation of the fauna by contributing to conservation funds. As preliminary conclusion, it is stated that tourism planning needs to share guidelines to ensure the maintenance of animal life for inspection by the responsible agencies, particularly in organizations that use animals in their routine activities, and to encourage the creation and participation of multiple actors in courses of environmental education by promoting parameters of awareness of the maintenance and conservation of non-human life.

Keywords: Environmental law, sustainable tourism, environmental ethics, sustainability, non-human.

Resumo

Este estudo visa uma investigação sobre a exploração da vida animal no turismo observada em certos destinos turísticos, como Jenipabu/RN, que usa dromedários das Ilhas Canárias em descompasso ético. Como hipóteses observadas, o turismo como atividade econômica não compartilha de parâmetros associados à preservação da vida e sustentabilidade, e o uso de animais no turismo vem a se constituir na reprodução de casos relacionados à exploração e violação dos direitos dos animais, vidas não-humanas. Analisa-se qual a avaliação do desenvolvimento do turismo de um destino que usa vida não-humana nesta atividade em certas regiões do Brasil. Através de pesquisa exploratória e método qualitativo, investiga bibliografia, documentação originária e artigos que abordam parâmetros de sustentabilidade no Direito Ambiental brasileiro e turismo, pelo qual foi diagnosticado meio de desenvolvimento sustentável para o setor, uma vez que esta atividade tende a atingir um fator de preservação da fauna ao contribuir para a com fundos de conservação. Como conclusões preliminares afirma-se que o planejamento turístico precisa compartilhar diretrizes para garantir a manutenção da vida animal para fazer a inspeção feita pelos órgãos responsáveis, particularmente em organizações que usam animais em suas atividades rotineiras, e incentivar a criação e participação de múltiplos atores em cursos de educação ambiental ao promover parâmetros de consciência da manutenção e da conservação da vida não-humana

Palavras-chave: Direito ambiental, turismo sustentável, ética ambiental, sustentabilidade, vida não-humana.

Resumen

Este estudio visa una investigación sobre la explotación de la vida animal en el turismo observada en ciertos destinos turísticos, como Jenipabu/RN, que utiliza dromedarios de las Islas Canarias en descompás ético. Como hipótesis observadas, el turismo como actividad económica no comparte parámetros asociados a la preservación de la vida y la sustentabilidad, y el uso de animales en el turismo viene a constituirse en la reproducción de casos relacionados a la explotación y violación de los derechos de los animales, vidas no-humanas. Se analiza cual es la evaluación del desarrollo del turismo de un destino que usa vida no-humana en esta actividad en ciertas regiones de Brasil. A través de investigación exploratoria y método cualitativo, investigación bibliografía, documentación originaria y artículos que abordan parámetros de sustentabilidad en el Derecho Ambiental brasileño y turismo, por el cual fue diagnosticado medio de desarrollo sustentable para el sector, una vez que esta actividad tiende a alcanzar un factor de preservación de la fauna al contribuir con fondos de conservación. Como conclusiones preliminares se afirma que la planificación turística precisa compartir directrices para garantizar el mantenimiento de la vida animal, para hacer la inspección hecha por los órganos responsables, particularmente en organizaciones que usan animales en sus actividades rutinarias, e incentivar la creación y participación de múltiples actores en cursos de educación ambiental al promover parámetros de consciencia del mantenimiento y la conservación de la vida no-humana.

Palabras Clave: Derecho Ambiental, Turismo Sustentable, Ética Ambiental, Sustentabilidad, Vida No-Humana.

Introduction

This study aims to debate the relationship between environmental law and the adoption of sustainable practices in tourism activity. Thus, it is observed that the evolution of the Right of the Environment goes to its interdisciplinarity, consecrating the Science of Law, in this way when demonstrating its interconnection with the criminal and tax sphere (Almeida, 2009), with sustainability, with different spheres of society, with animal protection and environmental ethics.

In 2017, the United Nations proclaimed 2017 as the International Year of Sustainable Tourism for Development, UNESCO recognizes that through this activity it will be possible to promote dialogue among cultures and to reduce poverty in the world (UNESCO, 2017).

In this perspective, this work reflects on the reality of exploration of animal life sometimes observed in certain tourist destinations, such as Jenipabu in Rio Grande do Norte, in the Northeast region of Brazil, where the use of camels from the Islands Canary Islands with the main purpose of using them for walks on the dunes.

Therefore, it is considered that in certain localities it is necessary to re-evaluate current patterns of development that would affect the sustainability standard proposed by raising awareness about the natural resources preservation and examining the changes caused by tourists in assessing the environmental impact of the activity in wildlife.

Before these considerations, it is pointed out as a research problem, what is the tourism development evaluation of a destination that uses animals in this activity in certain regions of Brazil?

In the hypotheses of the study, tourism as an economic activity does not share the parameters associated with the preservation of life and sustainability, and the use of animals in tourism has become the reproduction of cases related to the exploitation and violation of animal rights.

Based on these considerations, it is observed that the present article aims to reflect on the sustainability parameters and practices of low environmental impact in the tourist activity carried out in the tourist destination of Jenipabu, which use animals for the economic development of tourism activity. The specific objectives of the research are: to present aspects related to the area of law that in turn guarantee the preservation of life; demonstrate cases in the tourism sector that in turn comes to guarantee the sustainability of the environment; and to identify and discuss the ethical implications of the use of animals in tourism, as already occurs in the tourist destination of Jenipabu / RN.

Based on a qualitative research exploratory research that sought to review scientific articles and consulted organizations in the sector according to methodology applied to Law (Bittar, 2001). For this, the following keywords were used: environmental law, sustainable tourism, environmental ethics, sustainability and non-human animal life.

1. Principles and foundations for sustainability: environmental law as an instrument

Considering the Brazilian dimension we can see the difficulty of integrating environmental management. Brazil has numerous environmental laws that, through a complex system of competences and functionalities, spread through the Union, States, Federal District and municipalities.

In the State of São Paulo, the Forest Foundation (the managing agency of its conservation units) reveals that in the context of environmental education the main projects developed are related to student awareness, environmental monitoring, teacher training, and the development of partnerships with state and municipal bodies for environmental preservation. Furthermore, environmental education can be understood as the opportunity and the permanent process that society and individuals possess of knowing protected natural areas, which consequently is triggered in actions of conservation of biodiversity, cultural and historical diversity inserted (São Paulo, 2017).

Environmental Education and Environmental Law contribute to the preservation of the environment, since, according to the Universal Declaration of the Rights of Animals, education should teach from childhood to observe, to understand, to respect and to love animals (UNESCO - ONU, 1978).

Throughout the world, as in Brazil, from the perspective of environmental law, seven essential principles are considered applicable to the development of environmental discussions, such as the principle of human rights, the principle of sustainable development, democratic principle, precautionary principle and equilibrium, principle of the limit and finally, polluter pays principle (Mateo, 2003; Almeida, 2009).

These principles, on the other hand, guarantee the protection of the environment, landscapes, ecosystems, human and non-human plants and animals by implementing the discussion of their economic and sustainability retrospectives (Pettratos, Damaskou, 2015, Dietz, [s.d.]; Mosunova, 2014). Thus environmental law seeks to maintain the balance of life in all its forms, since protecting animals and flora, for example, also means protecting the environment (Priour, 2006; Almeida, 2009).

Brazilian legislation involving the subject of specially protected areas is vast, but incomplete, nonetheless. Even before 1988, in addition to the Federal Constitution (Brazil, 1988), article 225, paragraph 1, which ratified and established the essential guidelines of the Public Power on environmental preservation and conservation, the legal-environmental system reveals the existence of specific legislation for conservation units at the federal, state and municipal levels (São Paulo, 2017, São Paulo, 2000, Silva, 1992, Silva, 1998), which include the normative acts of table 1.

Table 1. Environmental preservation and conservation in Brazil: normative acts.

Standards	Subjects
Federal Law 6.902 of 27/4/81;	It deals with the creation of APAs and ecological stations;
Federal Law 6.938 of 31/8/81;	Addresses the National Environmental Policy;
Federal Decree 88.351 of 1/6/83;	It deals with the regulation of Law 6.938, and Law 6.902;
Decreto Federal 89.336 of 31/1/84;	Addresses ecological reserves and areas of relevant ecological interest;
Federal Decree 91.305 of 3/6/85;	Changes provisions of the CONAMA regulation;
CONAMA Resolution 4 of 18/9/85;	Addresses the definition of Ecological Reserves;
CONAMA Resolution 11 of 3/12/87;	Treats categories such as Conservation Units;
CONAMA Resolution 10 of 14/12/88;	Try to define APA and establish criteria for zoning;
Federal Law 7.803 of 18/7/89;	Adds paragraph to article 2 of the Forest Code;
Federal Law 7.804 of 18/7/89;	It seeks to amend Law 6.938, Law 7.735, Law 6.803, and Law 6.902;
Federal Decree 99.274 of 6/6/90;	It seeks to regulate Law 6,902, and Law 6,938;
CONAMA Resolution 13 of 6/12/90;	Establishes norms regarding the environment of the Conservation Units, aiming at the protection of their ecosystems;
Federal Law 9.605 of 13/2/98;	Addresses the environmental crimes;
Ibama Ordinance 77 – N of 20/9/99;	Establishes criteria and procedures for creating Conservation Units;;
Federal Decree 3.179 of 21/9/99;	Addresses the environmental crimes;
Federal Law 9.985 de 18/7/00.	It regulates the art. 225, § 1, items I, II, III and VII of the.

Federal Constitution, establishes the National System of Nature Conservation Units and provides other measures.

Source: Table drawn by the authors.

For the State of São Paulo we have Table 2, according to the Government of the State of São Paulo - Secretary of the Environment (2017), São Paulo (2000), Silva (1992) and Silva (1998).

Table 2. Environmental preservation and conservation in State of São Paulo: normative acts.

Standards	Subjects
Federal Decree 3.179 of 21/9/99;	It regulates Law 9,605;
State Decree 24.932 of 24/3/86;	It establishes the State System of Environment, and establishes the State Secretariat of the Environment;
SMA Resolution 02 of 20/1/92;	It deals with the organization of organs of the Secretariat of State for the Environment;
State Law 8.510 of 29/12 1993;	Provides for ICMS and amends Law 3.201;
State Law 9.509 of 20/3 1997;	State Environmental Policy;
State Law 10.212 of 8/1/99.	Allows burning of the remains of citrus.

Source: Table drawn by the authors.

Thus through these questions it is revealed in art. 1, of the Universal Declaration of the Animals Rights that all animals are born equal to life, and have the same right to exist (UNESCO - ONU, 1978). Therefore, it is essential to respect life in its different forms, and respect for the environment, its flora and fauna.

2. Sustainability: from tourism to ethics

Traveling is an opportunity for learning, fun, observing facts and customs that increase knowledge about society and the world (Stoppa e cols., 2017). Therefore, there is a need for the man to move to know different procedures, practices, places and cities, whether at work or at leisure.

Man and the environment are interconnected by their natural conditions (Almeida, 2009), in this way it is common to observe the human displacement, which is attracted by different spaces, be these mountains, caves, beaches, forests and deserts, which present diverse natural and climatic conditions, whether related, cold or hot.

Therefore, tourism interests can be understood as the spatial-temporal break, in the search for new landscapes, new cultures (Stoppa e cols., 2017), different animals and knowledge of different cuisines. At last, it turns out that people usually seek to travel in search of new experiences and escape their daily tensions associated with work and family, for example.

However, it should be noted that the current members of tourism activity need to be aware of the massification and mismanagement of the activity that has negative effects (PAVÓN e cols., 2013). Thus, tourism activity causes problems related to the high impact on the environment, on cultural and natural heritage, and on the urban environment (BUNAKOV e cols., 2015).

For this reason, the World Tourism Organization (WTO) is working on ways to develop alternative tourism that will allow the creation of national parks and the preservation of wildlife (Bunakov e cols., 2015). In contrast, Pavón e cols. (2013) informs that the creation of these parks does not ensure ecological and cultural integrity, and would increase the damages due to the tourist use.

The WTO has created a program called "10YFP STP Work Areas" that seeks to promote the transformation of the tourism sector to greater sustainability by considering 4 areas such as politics, evidence, practices and finances, which present as the main flag the proposal for continuous improvement (World Tourism Organization, 2017).

In the policy area, "10YFP STP Work Areas" aims to strengthen the formulation of sustainable tourism policies and to encourage relevant stakeholders to monitor tourism in accordance with the principles of social equity, good governance and transparency (World Tourism Organization, 2017).

In the area of evidence, the "10YFP STP Work Areas" seeks to promote multiparty partnerships by including private sector and local communities, and other stakeholders, which would result in intersectoral collaboration (World Tourism Organization, 2017). Regarding the practices, the "10YFP STP Work Areas" aims to conduct research and share successful experiences to identify existing sustainability tools in order to improve them and thus become more effective and efficient (World Tourism Organization, 2017).

As for finances, the "10YFP STP Work Areas" aim to develop and promote investment and financing tools that share sustainability parameters in the tourism sector, so tourist destinations and companies operating in this sector can be financed and invested in tools and technologies that meet the sustainability standards proposed by industry organizations (WORLD TOURISM ORGANIZATION, 2017).

Before this, it is essential that the stakeholders of this activity share the same objectives and strategies on the principles of sustainable development, ensuring the conservation of the nature and cultural heritage they have in supporting receptive communities, facilitating the enjoyment of the benefits and avoid negative impacts (Pavón e cols., 2013).

The diversity of approaches to the development of sustainable tourism and the complexity of this concept come from the fact that some researchers question its usefulness (Bunakov e cols., 2015). This is due to the difficulty in measuring tourism activity, which can present 11 large segments and about 120 sub segments, not to mention their intellectual and psychological possibilities (Panosso Netto & Ansarah, 2009; Stoppa e cols., 2017).

Therefore, it is observed that there is a large number of researchers that only assess the impact of tourism on the economy, data such as number of arrivals, time spent by tourists in destinations, and other economic indicators (Bunakov e cols., 2015).

In the socio-environmental sphere Pavón e cols. (2013) reveals that in Mexico the environmental preservation in Permanent Preservation Areas with the participation of the local community is a trend, following the model of the UNESCO program "El hombre y la Biosfera", in promoting sustainable management, environmental services and social participation.

Given the reality and the data presented, it is revealed that tourism as an effervescent activity that can be sustainable, demonstrates that daily requires new partnerships to better educate and inform, in order to stimulate new behaviors and strengthen commitment among all involved (UNESCO, 2017).

3. Quality of non-human life and economic interest: oppositions in Jenipabu / RN

In the city of Extremoz in the State of Rio Grande do Norte, in the Northeast region of Brazil, 20 km from the city of Natal, the state capital, it is possible to locate small businesses and a large number of street vendors that reflect the reality of economic dependence (De Almada, 2016) in relation to capital.

The process of urbanization by the tourism in this beach resulted in a territorial configuration in function of this economic activity, because directly or indirectly all the trades are related to the consumption that the tourists realize daily in Jenipabu (De Almada, 2016).

The Jenipabu Environmental Protection Area (APPA), which was created in 1995, consists of a complex of dunes, beaches, lagoons, mangroves, Atlantic forest (Silvino, 2015) and water resources; presents a total area of 1,881 hectares and was established by the Rio Grande

do Norte State Decree 12,620 dated 05/17/1995. This area has tourism potential, of which the highlight is the buggy and dromedary ride on the dunes, and also the walking on ecological trails (DA SILVA & ARAÚJO-DE-ALMEIDA, 2013). Thus, tourist activity is the driving force of Jenipabu (DE ALMADA, 2016).

The Jenipabu Environmental Protection Area is classified by the National System of Conservation Units (SNUC) as a Sustainable Use Nature Conservation Unit (Da Silva & Araújo-De-Almeida, 2013). Thus, in Article 2, item I, in Law 9,985, dated July 18, 2000, defining it as "territorial space and its environmental resources, including jurisdictional waters, with relevant natural characteristics, legally established by the Government, with the objectives of conservation and defined limits, under a special administration regime, to which adequate safeguards are applied " (Brazil, 2011).

Before this, it is observed that due to its environmental characteristics the tourist destination of Jenipabu houses a conservation unit, but it is debated about the conservation of this space. Since in this locality it is observed that for more than 20 years there are no projects in order to develop sustainable tourism or to insert sustainability guidelines that collaborate with the preservation of nature in the APA Jenipabu (Silvino, 2015).

According to Silvino (2015), the public authority in the tourist destination of Jenipabu / RN performs few actions of orientation to the visitors, the existent informative actions occur within the Ecoposto of the IDEMA, and sometimes they are realized by NGOs or the private initiative.

It is worth reporting on IDEMA (IDEMA, 2017), Institute of Sustainable Development and Environment of Rio Grande do Norte, which is an autarchy as a result of the union of attributions between the Foundation Institute of Development of RN (IDEC), created by the state norm : Law No. 4.286, dated December 6, 1973, (amended by Law No. 4,414, dated November 4, 1974), and the Environmental Coordination (CMA), created by Decree No. 8,718 of September 16, 1983. In 1995, through Complementary Law No. 129 of February 2, 1995. The IDEC Foundation is attached to the State Secretariat for Planning and Finance (SEPLAN / RN) and, in the the following year, transformed into the Institute of Economic Development and Environment of Rio Grande do Norte (IDEMA) - through Complementary Law no. 139 of January 25. At that moment, IDEMA incorporates the attributions of the then Environmental Coordination (CMA), also linked to SEPLAN / RN, and absorbs the competence, among others, to formulate, coordinate, execute and supervise the State's policy of preservation, conservation, , rational use and recovery of environmental resources, as well as to supervise compliance with the norms for the protection, control, use and recovery of environmental resources, applying disciplinary and/or compensatory penalties to the infractions. On January 31, 2007, Complementary Law No. 340 transformed IDEMA into an Institute for Defense of the Environment, without it changing its acronym. The following year, through Complementary Law No. 380 of December 27, 2008, the environmental agency is linked to the State Secretariat for the Environment and Water Resources (SEMARH/RN), being renamed the Development Institute Sustainable Development and Environment. Because the CMA was the unit that gave IDEMA its environmental character,

on the date of creation of the Environmental Coordination, on September 16, 1983, the body recognized its date of foundation.

Despite all the legal logic of creation and action, the local community denounces the flagrant need for environmental education programs in order to preserve the environment and natural resources (Silvino, 2015), thus demonstrating the omission of the Public Power in their different spheres.

Even so, it is common to observe through a brief Internet search conducted on the Google site the disclosure made by companies in the tourism sector on the offer of buggy tours and dromedaries in this tourist destination. As well as through the tool TripAdvisor is possible to observe complaints and compliments of tourists who used this service.

In this context, it is revealed that the dromedaries were brought from the Canary Islands in the year 1998 by the French Philippe Landrye and his wife Cleide Batista, who due to the service offered by the company Dromedunas these animals work daily from 9 am to 5 pm and from of the year of 2001 began the reproduction of these animals, their gestation lasts 13 months (Dromedunas, 2017).

Through Internet sites and Youtube videos, there is criticism of this activity, which is considered by the defenders of these animals as an "exploitation", mainly because the dromedaries are far from their habitat and use gag (Liberary Union Animal, 2017). In addition, the stable where these animals stayed was located within an Environmental Protection Area.

Therefore, in the midst of the natural resources and the ecological wealth existing in the environment of the Area of Environmental Protection of Jenipabu, it is verified that the Public Power needs to mobilize in order to organize and guide the activities developed in the place, in order to preserve the environment and to provide environmental services to the local community and visitors.

Final considerations

The final considerations of this study are that we sought to interweave parameters associated with environmental law and the area of sustainability by revealing the case of animal environmental exploration with dromedaries in the Jenipabu/RN Environmental Protection Area.

Thus, when considering the research problem, when seeking to evaluate the tourism development of a destination that uses animals in this activity in certain regions of Brazil, it is stated that the managers of the tourist activity carried out at APA Jenipabu and its surroundings,

need to review the current patterns of development, and to seek models that respect the country's environmental legislation and that can introduce the local community in this activity.

The Public Power in this tourist destination needs to be more present, by providing posters and boards that guide the development of activities in this place, as well as seek to provide the local community environmental education courses and control of tourism in this destination.

Given the first hypothesis of the study, tourism as an economic activity does not share parameters associated with life preservation and sustainability, it is observed that as all tourism activity presents its positives and negatives, to maximize its benefits it is primordial that different members of the tourism activity share the same objectives and understand the importance of development in order to respect the environment.

In the second hypothesis, the use of animals in tourism is to constitute the reproduction of cases related to the exploitation and violation of animal rights, it is verified that in the case of the Jenipabu APA this reality occurs, since the dromedaries were removed of its natural habitat and inserted in another locality, that until then was not "used" of these animals.

But there are cases of success in tourism, which observe the flagrant respect for animals and the preservation of the environment, sometimes by granting benefits to the local population as environmental education courses, the valuation of their culture as well as economic benefits.

It should be emphasized that the activities developed in the context of the tourist sector in the destination of Jenipabu present high environmental impact, since they are developed with buggy tours in the place. Disrespecting the logic of the region by increasing pollution to the destination with damage to native species.

Another important source of environmental impact in this destination is caused by the dromedaries that were inserted in this ecosystem, in this way had to adapt the environmental and climatic conditions of the northeastern region of Brazil, in turn may change the APA Jenipabu ecosystem.

Finally, we sought to reflect on the reality of sustainability and tourism development presented in the destination of Jenipabu, located in the northeastern region of Brazil, whose activities developed by the members of this sector have a high environmental impact, within and around an Area of Environmental Preservation. In what stands out is the flagrant discontent of a portion of the local community and the visitors of this tourist destination in the midst of this activity and the omission of the public power in the middle of this scenario.

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