

PROPERTY RIGHTS

RIGHT TO A RESIDENTIAL ENVIRONMENT

FREE FROM NOISE POLLUTION

AND FREE FROM EXCESSIVE, UNNECESSARY
AND HARMFUL NOISE



Associação Civil Sem Fins Lucrativos
Monitor Ambiental Acústico

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1. PROPERTY AS A FUNDAMENTAL RIGHT

Property is a fundamental right.¹ The right to property includes the powers to use, dispose of and transfer and to prevent invasion and/or interference against third parties.

The right to property is correlated with the right to sustainable development. Urban, technical and industrial underdevelopment, represented by noise pollution, is a factor in the degradation of property rights.²

Polluters are agents of environmental degradation, and their activities result in environmental damage and even damage to public health. Therefore, polluters and pollution must be combated with appropriate techniques.³ Polluters have antisocial, illegal and environmentally unsustainable behavior.⁴

1 See: Federal Constitution, art. 5, inc XXII.

2 See: Scorsim, Ericson. **Acoustic environmental sustainability for cities. Regulatory proposals.** Curitiba: authorial edition, Amazon, 2024. On the costs of pollution and the need for an anti-pollution policy: Boulding, Kenneth, Stahr, Elvis, Manufacturer, Solomon and Gainsbrugh, Martin. **Economics of pollution.** New York University Press, 1971.

3 Law and the rule of law must make the hierarchy of fundamental human rights prevail over machines that pollute the environment. On this subject, see: Pattee, Howard. **The nature of hierarchical controls in living matter.** Currently, there is a perverse scenario of hierarchization of machines over human life, with harmful biological and psychological effects on the human organism.

4 Hence the need for anti-pollution strategies, with measures to dissuade polluters by restricting their conduct. See: Juarrero, Alicia. **Dynamics in action: intentional behavior as complex system.** Emergence, 2(2), 24-57.



The residential environment is intertwined with the right to property. The residential environment is the living space necessary for the basic functions of the human person.⁵ There is an intertwining between the right to property and human dignity. And between property and personality rights: private life, private autonomy, intimacy, among others.⁶

There is the right to defend the residential environment.

The quality of the sound environment is a prerequisite for quality of life and a factor of health, well-being and comfort.

There is also the right to property, which includes the right to defend one's property against interference from third parties.

The defense of property includes measures to repel undue aggression against the essential core of the property. The defense of the living space, associated with the residential environment, is a fundamental right.

The right to defend the living space, intertwined with the residential environment. And intertwined with the bodily environment, in respect of physical and psychological integrity.

5 See: Bollnow, Otto Friedrich. **Human space**. London: Mimesis International, 2020. The author explains the function of the home for the essence of life, as well as its functions as a safe environment.

6 See: Hill Jr. Thomas. **Autonomy and self respect**. Cambridge University Press, 1995.



Any and all abusive acts by third parties that interfere with the ownership of property are unlawful acts. In this regard, acoustic interference that causes degradation of the sound quality of a property is a factor in civil, criminal and environmental liability.⁷

Here, the degradation of residential environmental quality caused by noise pollution is an act of abusive interference in property rights. There is, therefore, the generation of damages due to noise pollution on the property.⁸

Therefore, ensuring the environmental well-being of the property's surroundings is essential to guarantee the human well-being of the property's residents.⁹

Also, to ensure the acoustic environmental comfort of

7 See: Leite, José Rubens Morato and Ayala, Patryck de Araújo. **Environmental Damage**, 8th edition: Rio de Janeiro, Forense, 2020. See: Steigleder, Anaise Monteiro. **Environmental Civil Liability**. The Dimensions of Environmental Damage in Brazilian Law, 3rd edition. Porto Alegre: Livraria do Advogado, 2017.

8 See: Castro, Luis Martínez Vasquez. **Environmental damage and the right to silence**. Madrid, 2015. See: Sanz, Benjamin Garcia and Javier, Francisco Garrido. **Acoustic pollution and our city**. Caixa Foundation, 2003. See: Fiodd, Miguel Dunshee. And Pedera, Adriano Sant'Anna. **Noise pollution and the fundamental duty to preserve a healthy environment: an analysis based on decision STC 119/2001 of the Spanish Constitutional Court**. Magister Journal of Environmental and Urban Law. Porto Alegre, Feb/Mar, 2021.

Prieur, Michel and Bastin Christophe, **Measuring the effectiveness of environmental rights, legal indicators for sustainable development**. Brussels, Peter Lang, Editions Scientifiques Internationales, , 2021.

9 See: Dasgupta, Partha. **Human well being and the natural environment**. Oxford University Press, 2007. See: Jammer, Margaret Scheider. **Promoting human wellness. New frontiers for research**, practice and policy. University of California Press, 2000.



the property's surroundings, it is important to guarantee the human comfort of the property's residents.¹⁰

The right to a clean, healthy and sustainable environment requires measures to defend the right to property.

The right to a safe environment requires measures to defend the right to property.

The loss of quality of the residential environment, inherent to property, gives rise to the right to recovery, regeneration and restoration of natural environmental quality, free from noise pollution and the emission of excessive, unnecessary and harmful noise.¹¹

Therefore, obligations to protect, obligations to respect and obligations to guarantee the quality of the property must be imposed.

The Constitution also guarantees the inviolability of the home, and no one may enter a home without the owner's consent in cases of judicial order. Invading a home is considered a crime.¹² Illegal possession and occupation of real estate are crimes. For this reason, measures to defend and secure property are essential.

10 See: Schmid, Aloisio. **The idea of comfort. Reflections on the built environment** . Environmental Pact Curitiba, 2005.

11 See: Scorsim, Ericson. **Smart, healthy and sustainable condominiums, free from noise pollution** . Curitiba: authorial edition, Amazon, 2024.

12 See: Constitution, art. 5th. XI. See: Martínez, Pilar Domínguez. **The acoustic environment and the right to the inviolability of the home**. Private Derecho and Constitución Magazine n. 28, enero-diciembre, 204, p. 401-446.



The owner's right includes defense measures against the management of Residential Buildings that characterize abusive interference in their property rights, including against personal acts of Trustees that violate the right to property and other fundamental and personal rights.

Also, the owner's right includes measures against abusive interference with his property in neighborly relations.

By way of illustration, there is the right to advance production of evidence in relation to damages caused to property rights, the right to life, the right to quality of life, the right to privacy, personality rights, fundamental rights¹³, and environmental rights.¹⁴

Another point is the guarantee of the right to defend property caused by abusive interference due to environmental noise pollution from traffic and means of transport.¹⁵

In short, the contemporary conception of the right to property must be understood as a fundamental right intertwined with other fundamental rights, such as the right to the environment and the right to natural environmental sound quality, free from noise pollution and the emission of excessive, unnecessary, harmful and damaging noise.

13 Right to physical integrity and psychological integrity, right to physical health, physiological health, mental health, hearing health, environmental health, right to rest, right to work, right to well-being and comfort, right to a culture of stillness, right to environmental peace sustainable .

14 See: Code of Civil Procedure, art. 381.

15 According to the World Health Organization, the noise emission limit for the day should be 53 dB (A) and for the night 45 dB (A).



2. INTERDEPENDENCY OF PROPERTY RIGHTS WITH FUNDAMENTAL RIGHTS TO LIFE, QUALITY OF LIFE, ENVIRONMENTAL QUALITY, PRIVACY AND PRIVACY, HEALTH, SAFETY, WELL-BEING AND ENVIRONMENTAL SOUND COMFORT

It should be noted that within the normative scope of property rights there are a series of other fundamental rights. In the context of property there is the right to life, the right to privacy, private autonomy and personality rights.¹⁶

Noise pollution impacts life, privacy and the right to free development of personality and health.

There is a correlation with the rights to physical health, physiological health, mental health, hearing health, cardiovascular health, among other dimensions.¹⁷

16 Hill, Thomas E. **Autonomy and self respect** . Cambridge University Press, 1995.

17 See: The **International Commission Biological Effects of Noise** – IC BEN, which contains several scientific studies on the biological effects of noise. See: Meier, Benjamin Mason and Fox, Ashely. **Development as health: employing the collective right to development to achieve the goals of the individual right to health**. Human Rights Quarterly, 30 (2008), 259-355. Halpern, David. **More than bricks and mortar? Mental health and the build environment** . Taylor and Francisc, 2004.



Development is a condition for full health. Therefore, the technical underdevelopment of equipment, machines and tools that generate noise pollution is a factor in the degradation of health conditions. The World Health Organization shows scientific studies that the loss of healthy days of life is caused by noise pollution.¹⁸

Environmental noise pollution affects the brain's cognitive systems, impacting the ability to concentrate. Noise pollution impacts the nervous system, causing irritability and anxiety. Noise pollution impacts the digestive, endocrine and sleep systems.¹⁹

Furthermore, noise pollution affects safety. Excessive, unnecessary and abusive noise creates a constant state of psychological insecurity. Therefore, the right to safety is violated.

Another point is the violation of the right to well-being and environmental sound and auditory comfort caused by noise pollution.²⁰

Due to this multidimensionality of fundamental rights, impacted by environmental noise pollution and excessive, unnecessary, harmful and damaging noise, governance measures are necessary to guarantee the full exercise of the fundamental right to property, even as a right-guarantee of

18 The World Health Organization. **Burden of disease from environmental noise – quantification of healthy life year lost in Europe.**

19 See: The International Commission Biological Effects of Noise – ICBEN.

20 On the importance of the natural environment for human well-being, see: Dasgupta, Partha. **Human well being and the natural environment.**



other fundamental rights to life, quality of life, environmental quality, private life, health, well-being and comfort and security.

3. THE PROPERTY AND ITS ENVIRONMENTAL SURROUNDINGS. PROTECTION OF NATURAL ENVIRONMENTAL SOUND QUALITY AND THE SOUND ENVIRONMENT

Every property has its own environmental environment. The quality of the environmental environment affects the property, its economic value and its functionality. The better the quality of the environmental environment, the better the quality of the property. Conversely, the worse the quality of the environmental environment, the worse the quality of the property.²¹

Neighborhood relations that generate noise pollution create risks of damage to property rights.²²

Therefore, environmental education programs are needed for clean, healthy and sustainable neighborhood relations, free from noise pollution and excessive, unnecessary, harmful and damaging noise emissions.

21 See: Starki, DNM and Johnson. DM **The economic value of peace and quiet. Saxon House and Lexington Books, 1975.**

22 Therefore, the fundamentality of indicators to measure the effectiveness of environmental law, see: Prieur, Michel and Bastin, Christophe. **Measuring the effectiveness of environmental rights. legal indicators for sustainable development.** Peter Langa, 2021.



The protection of the quality of the environmental surroundings, including the sound environment of the property, is the owner's right.

Everyone is obliged to ensure the quality of the sound environment, free from noise pollution and excessive, unnecessary, harmful and damaging noise emissions. Sound environmental quality is an essential condition for quality of life, health, well-being and comfort, as well as tranquility.

Therefore, it is in your interest to prevent and combat noise pollution that affects your property.

The natural environment surrounding the property has its economic value, and can even be measured. A polluted area has less economic value, while a clean, healthy and sustainable area has greater economic value.²³

In short, the natural sound environment, which is part of the property, has legal, economic and environmental value. Therefore, there are measures to defend the value of the quality of the sound environment.²⁴

23 Castro, Joana D'Arc and Nogueira, Jorge Madeira. **Economic valuation of the environment. Theory and practice.** CRV Publishing House. Curitiba, 2019.

24 See: Dasgupta, Partha. **Human well-being and the natural environment** . Oxford University Press, 2001.



4. CONTAMINATION OF PROPERTY BY NOISE POLLUTION

Property degraded by noise pollution has economic risks of devaluation.²⁵

For example: a degraded environmental area has less value than an environmental area with environmental quality.

An area with clean air has a higher value than an area with polluted air. An area with noise pollution has a lower value than an area without noise pollution.

Noise pollution caused by traffic is a factor that degrades environmental sound quality and poses a risk of property devaluation. For all these reasons, it is essential to promote environmental protection of property in the face of the risks of noise pollution.

At this point, it is important to demand effective measures from the public authorities to exercise environmental police powers and traffic police powers to prevent environmental damage and the degradation of environmental sound quality.

It is the obligation of the public authorities to regenerate, recover and restore the quality of the natural sound environment, free from noise pollution and the emission of excessive, unnecessary, harmful and damaging noise.

25 See: Castro, Joana D'Arc and Nogueira, Jorge Madeira. **Economic valuation of the environment.** Theory and practice. Curitiba: CRV, 2019.



It is the public authorities' obligation to implement the polluter pays principle.

It is the polluter's obligation to regenerate, recover and restore the quality of the natural sound environment, free from noise pollution and the emission of excessive, unnecessary, harmful and damaging noise.

5 ON THE ECONOMIC VALUE OF THE NATURAL SOUND ENVIRONMENT SURROUNDING THE PROPERTY

Economic literature demonstrates the economic value of the property in its surroundings with quietness and tranquility. This is the so-called hedonic value, associated with environmental well-being.²⁶

According to experts, the exposure of a property to environmental noise pollution and excessive, unnecessary and abusive noise is a factor that depreciates the value of the property. Therefore, a clean, healthy and sustainable property, free from environmental pollution, has a higher market value.

Also, positive peace, that is, a peaceful environment, free from conflicts, has a higher market value. Sustainable environmental peace and sound are a condition for increasing the value of property.²⁷

26 Starkie, DNM and Johnson, DM **The economic value of peace and quiet**. Saxon House and Lexington Books, 1975.

27 See: the right to peace, provided for in Resolution No. 71 of 2016 of the UN General Assembly, and Resolution 32 of the UN Human Rights Council.



The right to sustainable environmental peace and noise contributes to the protection of the right to property, free from disturbance caused by environmental noise pollution.

In short, environmental protection of the natural sound environment, free from noise pollution and excessive, unnecessary, harmful and damaging noise emissions, is a more appropriate measure, including serving to protect property rights.

6. RISK OF PROPERTY DEVALUATION CAUSED BY NOISE POLLUTION AND ACOUSTIC ENVIRONMENTAL DAMAGE

Scientific literature has a methodology for calculating the risk of damage to the value of a property caused by noise pollution. The indicators range from the loss of the property's economic value to the property's functional value.

The measurement of environmental damage. On the other hand, an environment with noise violence has a lower economic value.

Therefore, there is a whole methodology for pricing properties, in accordance with environmental and noise sustainability parameters.



The central point of economic valuation is the value of the property's use. Environmental noise pollution and the emission of excessive, unnecessary and abusive noise are factors that deprive the property of its use for purposes of rest, leisure, work, health treatment, among other functions. There is also a loss of the property's hedonic value, that is, the economic value associated simply with the amenities intrinsic to it.²⁸

Also, for health reasons, before, during and after the coronavirus pandemic, the best measure is to keep the windows open to ensure maximum air circulation. Furthermore, in scenarios of smoke caused by fires and burnings, it is necessary to close the windows.

Ultimately, all these well-known facts demonstrate the impact of environmental pollution on property rights. Therefore, all the best measures are being taken to ensure maximum protection of property rights and other fundamental rights.

7. ESCALATION OF PROPERTY DAMAGE AND COSTS ASSOCIATED WITH ENVIRONMENTAL NOISE POLLUTION

Environmental noise pollution generates an escalation of environmental damage related to the degradation of environmental sound quality.

²⁸ Note that in a scenario of rising temperatures, the best measure of thermal comfort is to leave the windows open. However, opening the windows causes greater acoustic contamination.



There are economic damages, psychological damages and existential damages. There are economic damages with the devaluation of the quality of the property. There are economic damages with loss of opportunity.

There are risks of damage to health caused by noise pollution and excessive, unnecessary and harmful noise.

There is psychological damage caused by stress caused by noise pollution and the emission of excessive, unnecessary, harmful and damaging noise.

There are moral damages caused by noise pollution and the emission of excessive, unnecessary and harmful noise.

There is existential damage to life projects due to noise pollution and the emission of excessive and harmful noise.

There is a deviation from productive time caused by noise pollution and excessive, harmful and damaging noise.

Environmental noise pollution generates a series of costs for property owners. There are also costs for defending property against abusive interference caused by noise pollution and excessive, unnecessary and harmful noise.

All these costs must be passed on to the noise polluters, who must assume the economic burden of their antisocial, illegal and environmentally unsustainable behavior.



8. RIGHT TO SUSTAINABLE ENVIRONMENTAL PEACE, FREE FROM NOISE POLLUTION

The right to environmental peace and sound has a dual dimension. One is the individual dimension that protects the person. The other is the collective dimension that protects the community.²⁹

About specific literature, see: Mazzaro, Kyond and others. *Realizing Sustainable Peace*. Expert survey report, October 2015. Advanced Consortium on Cooperation, conflict and complexity. Earth Institute University. See: Smith, Dan. **Elements of a planetary emergency** . Environment of Peace, Part I, **Security Risks of environmental crises**. Environment of Peace part 2 and **Navigating a just a peaceful transition**. Environment of Peace part 3, Stockholm, 2022. See: RJ Rummel, *The Just peace*. Beverly Hill California. Sage Publications, 1981. Turan, Tuba. **The 2015 UN General Assembly Declaration on the right to peace: a step towards sustainable positive peace within societies** , *Human Rights Law Review*, 2023, 23.1-23. Oxford.

²⁹ See on the right to peace, provided for in UN General Assembly Resolution 71 of 2016, and UN Human Rights Council Resolution 32. UNESCO's programme of action. **Culture of peace and non-violence. A vision in action** . See also: **From a culture of violence to a culture of peace**. UNESCO, 1996. General Conference, 39th Session Paris, 2017. **The importance of sound in today's world. Promoting best practices** , 25 September 2017. See: Woord, John Carter. *Conceptualizing cultures of violence and cultural change*. In Carrol, Stuart. **Cultures of violence: interpersonal violence in historical perspective** . Palgrave Mcmillan.



See also John Galtung's concept of positive peace. See: David Bloomfield et al. Social change and conflict transformation. Berhof Handbook Dialogue Series, 2006. And Barbara Unger and others. Peace Infrastructures. Assessing concepts and practices, Berghoof Handbook Dialogue Series, 2013. See: positive peace implementation guide: a user's guide to the positive peace framework. See: Environmental Security, 2012. State of the Future. See: Dudoute, Veronique and Schmelzle (eds). Human rights and conflict transformation. The challenges of just peace . Berhof Conflict Research. Berghoff Handbook Dialogue Series.

The right to sustainable environmental peace and noise demands measures to eliminate and reduce environmental noise pollution.

It also demands campaigns for education for environmental peace, free from environmental noise pollution.

Therefore, the failure of public environmental and traffic bodies to prevent and combat noise pollution is grounds for the public administration to be held liable.



9. DAMAGES TO PROPERTY RIGHTS AND THE RIGHT TO THE RESIDENTIAL ENVIRONMENT DUE TO NOISE POLLUTION IN THE CONTEXT OF NEIGHBORHOOD RELATIONS

There are hypotheses of noise pollution caused by the abusive use of equipment, machines and tools used in services and works, in neighborhood relations.

Hence the relevance of environmental education programs to disseminate practices for clean, healthy and sustainable neighborly relationships, free from environmental noise pollution.

Also, to disseminate environmental rights and guarantees, as well as the environmental principles of prohibition of environmental regression, duty of environmental progressiveness, prevention of environmental damage, precaution of environmental damage, environmental safety, environmental defense, environmental quality, polluter pays, environmental due process.

For the literature on neighbourhood relations, see: A neighbourhood strategy for national renewal . Final report of the APPG for “left behind neighbourhood inquiry into levelling up. October, 2023. See: Healthy neighbourhoods . Working together. Future of London. See: Building inclusive and healthy neighbourhoods, block by block. Findings for



11 neighborhoods nationwide (Hanna Love and Bethany Krupicka). Brookinks metro. See: The effectiveness of neighborhood watch . Bennet Trevor and others. The Campbell collaboration. See: Concepts of neighborhood. A review of the literature, Allen Natalei. Building better homes, towns and cities. National Science Challenge. See: Bronzaft, Arline and others. **Neighborhood noise and its consequences. A survey in collaboration with Cenyc. Council on the environment of New York City** , January, 2006.

10. DAMAGE TO PROPERTY RIGHTS AND THE RIGHT TO A HEALTHY RESIDENTIAL ENVIRONMENT DUE TO NOISE POLLUTION CAUSED BY CONSTRUCTION WORKS

Other cases of degradation of the environmental quality of the property due to noise pollution caused by construction works in the vicinity of the property.

Therefore, it is essential that the public authorities demand studies on the environmental and noise impact of civil construction works in areas close to the construction site.

The public authorities must, without fail, require measures to eliminate, reduce and isolate the emission of



environmental noise pollution and the emission of excessive, unnecessary, harmful and damaging noise.

Measures are necessary to eliminate, reduce and isolate noise from construction works, under penalty of civil, criminal and administrative liability of the polluting agent.

11. DAMAGE TO PROPERTY RIGHTS AND TO A HEALTHY RESIDENTIAL ENVIRONMENT DUE TO NOISE POLLUTION CAUSED BY URBAN TRANSPORTATION BUSES

Urban transportation buses cause degradation of environmental sound quality, impacting the environmental value of properties.

According to the World Health Organization, the noise emission level in traffic and transport should be 53 dB (A) during the day and 45 dB (A) at night.

Residential areas impacted by bus terminals suffer from degradation of environmental sound quality.

Residential areas impacted by urban transport buses on the streets suffer degradation of their environmental sound quality.

Therefore, it is the obligation of the public authorities to adopt measures to prevent, manage and control noise pollution caused by public passenger transport buses.



It is the City Hall's obligation to impose obligations to regenerate, restore and recover the sound environmental quality, free from noise pollution caused by public transportation buses.

It is the City Hall's obligation to impose environmental compensation obligations for residential and commercial areas impacted by noise pollution from urban transportation buses.

12. DAMAGE TO PROPERTY RIGHTS AND THE RIGHT TO A HEALTHY RESIDENTIAL ENVIRONMENT DUE TO NOISE POLLUTION CAUSED BY MOTORCYCLES

Motorcycles are a source of degradation of the environmental sound quality of the residential environment.

It is the obligation of the environmental police power and the traffic police power to prevent and combat noise pollution from motorcycles.

The failure of the municipal government to prevent and control noise pollution from motorcycles is grounds for its administrative and environmental liability.

Therefore, traffic education campaigns are essential to dissuade antisocial and environmentally unsustainable behavior.



13. IMPLEMENTATION OF THE PRINCIPLE OF PROHIBITION OF ENVIRONMENTAL SETBACKS.

Everyone is bound by the principle of prohibiting environmental regression. Therefore, it is their responsibility to ensure the obligations to regenerate, recover and rescue the quality of the sound environment degraded by noise pollution.

The municipal government in its environmental policy must define indicators for the prevention, management, inspection and control of environmental noise pollution, which is essential, with gradual and progressive, monthly and annual targets.

The municipal government must adopt indicators regarding noise emission limits in traffic and the transport sector, **in accordance with the parameters of the World Health Organization, which establishes the limit of 53 dB (A) for the day and 45 dB (A) for the night.**

Here, parameters must be set for monitoring noise pollution caused by urban passenger transport buses, with monthly and annual targets to reduce noise pollution.



Parameters for monitoring noise pollution from motorcycles must be set, with monthly and annual targets to reduce noise pollution.

Indicators related to the prevention, management and control of noise emissions in civil construction works. There is also a duty to carry out an inventory of equipment, machines and tools used in civil construction works with noise emission potential.

Indicators relating to the prevention, management and control of noise emissions in condominiums.

Indicators relating to the prevention, management and control of noise emissions,

14. PRINCIPLE OF PREVENTION AND PRECAUTION WITH RESPECT TO ENVIRONMENTAL DAMAGE AND THE RIGHT TO A HEALTHY RESIDENTIAL ENVIRONMENT

It is essential that municipal governments adopt an acoustic environmental governance program to implement the principles of prevention and precaution regarding environmental damage to the residential environment.

It is also important that RESIDENTIAL BUILDINGS adopt acoustic environmental governance programs to avoid noise pollution.



Therefore, it is essential to implement a system for recording and inventorying works, services, equipment and machines with excessive, unnecessary, abusive, harmful and damaging noise emission potential.

Also, establish procedures for acoustic environmental due diligence and compliance, as well as environmental auditing regarding the risks of acoustic environmental damage.

15. PRINCIPLE OF ENVIRONMENTAL DUE PROCESS OF LAW

It is essential to put the principle of environmental due process into practice.

The principle of environmental due process is a guarantee against threat or harm to environmental assets, principles and rights.

This principle demands practical procedures to guarantee the right to a clean, healthy and sustainable environment, free from noise pollution and excessive, unnecessary and abusive noise emissions.

The principle of environmental due process acts as a control factor against administrative omission in the prevention, management and control of environmental noise pollution and the emission of excessive, unnecessary and harmful noise.



Furthermore, the principle of environmental due process acts as a factor in controlling legislative omissions regarding the enactment of legislation appropriate to the protection of the right to a clean, healthy and sustainable environment, free from noise pollution and the emission of excessive, unnecessary and abusive noise.

16. IMPLEMENTATION OF THE POLLUTER PAYS PRINCIPLE TO CONTAIN DAMAGE TO PROPERTY RIGHTS AND THE RIGHT TO A HEALTHY RESIDENTIAL ENVIRONMENT

The implementation of the polluter pays principle must occur through the establishment of environmental taxes.³⁰

And also with the elimination of possible subsidies for technologies that are not clean, healthy and environmentally unsustainable.

Another point is the restriction on financing non-clean, unhealthy and environmentally unsustainable technologies.

Also, by applying effective sanctions to polluters to deter their antisocial and environmentally unsustainable behavior.

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See: The World Bank. **The polluter pays principle** .



17. ENVIRONMENTAL REPAIR AND COMPENSATION MEASURES TO BE IMPOSED ON POLLUTERS

The polluter must be obliged to adopt measures to repair environmental damage, with obligations to regenerate, recover and restore the quality of the sound environment.

Environmental compensation measures must also be imposed on polluters for degraded residential and commercial areas, in amounts compatible with the costs and expenses to eliminate, reduce and/or isolate noise.

18. CONCLUSIONS

The right to property is protected by the Constitution and Brazilian legislation. The environmental surroundings of a property are protected by the Constitution and legislation. Fundamental rights related to environmental sound quality are protected by the Constitution and by law.

The right to a residential environment is intertwined with the right to property. Abusive interference in the right to property, through noise pollution and the emission of excessive, unnecessary, harmful and damaging noise, ends up denying several fundamental rights, such as: life, quality of life, privacy, private autonomy, work, health, well-being, rest, among others.



The principle of prohibition of environmental setback is a factor in preventing acoustic contamination of property. There are obligations to protect and respect the right to property and the right to a healthy residential environment, free from noise pollution and the emission of excessive, unnecessary, harmful and damaging noise. Civil and environmental protections serve to protect the right to a healthy residential environment, free from acoustic contamination.



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