

**THE CONSTITUTIONAL INFLUENCE OF THE DISARMAMENT STATUS:
CHANGES AND GUARANTEES TO LIFE, DIGNITY AND SECURITY | A
INFLUÊNCIA CONSTITUCIONAL DO ESTATUTO DO DESARMAMENTO:
ALTERAÇÕES E GARANTIAS À VIDA, DIGNIDADE E SEGURANÇA**

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ABSTRACT | This is a descriptive study of documental research, using data Thematic Content Analysis. Its objective was to discuss the evolution of the legal system before the Disarmament Statute and the social impacts. The importance that the Constitution of the Federative Republic of Brazil of 1988 has in relation to the Disarmament Statute leads us to reflect on the impacts on society. With the 1948 Universal Declaration of Human Rights and the aforementioned Constitution, many guarantees of social rights were established and major issues raised. Fundamental rights are essential for preservation of life and safety with principles and foundations. It is perceived that more efficient policies related to the criminal system, the exercise of fundamental rights, a prison model that can actually apply resocialization, among other particularities that change the way of dealing with weapons, are essential.

KEYWORDS | Constitution. Disarmament. Legislation. Public Security.

RESUMO | Trata-se de estudo descritivo de pesquisa documental, utilizando a Análise de Conteúdo Temática dos dados. Teve por objetivo discutir a evolução do ordenamento jurídico perante o Estatuto do Desarmamento e os impactos sociais. A importância que a Constituição da República Federativa do Brasil de 1988 tem em relação ao Estatuto do Desarmamento nos leva a refletir sobre os impactos para a sociedade. Com a Declaração Universal de Direitos Humanos de 1948 e a referida Constituição, muitas garantias de direitos sociais foram estabelecidas e grandes questões, levantadas. Direitos fundamentais são essenciais para a preservação da vida e da segurança, com princípios e fundamentos. Percebe-se que são essenciais políticas mais eficientes relativas ao sistema criminal, ao exercício de direitos fundamentais, um modelo prisional que consiga de fato aplicar a ressocialização, entre outras particularidades que mudem o modo de lidar com o armamento.

PALAVRAS-CHAVE | Constituição. Desarmamento. Legislação. Segurança Pública.

1. INTRODUCTION

The Constitution of the Federative Republic of Brazil is considered the current Magna Carta. Many changes have occurred with its entry into force and many guarantees have been achieved as it mirrors the 1948 Universal Declaration of Human Rights. This article aimed to discuss the constitutional evolution and the importance of using it to create laws and their consequences, such as the Disarmament Statute, Law 10.826 of December 22, 2003, how to deal with fundamental rights and principles and its importance in the legal framework and in the society in which we live (BRASIL, 1988; BRASIL, 2003).

There is a direct influence of constitutional precepts on law, since principles such as the human person's dignity are reflected in several other foundations, such as life, freedom and security. All this must be evaluated when it comes to legislation formulation.

It seeks to demonstrate the social aspirations related to the Statute promulgation, the points that are considered positive and negative, in addition to deepening the constitutional issues. This study is justified by the importance of asserting the influence of the Brazilian Federal Constitution on legislation related to firearm possession. Thus, the assumption is formulated that the common good, dignity and equal rights principles are present in the legislation constitutional framework and regulation. Therefore, the analysis of the Disarmament Statute and its amendments will be carried out in light of the Universal Declaration of Human Rights and the Constitution of the Federative Republic of Brazil.

Therefore, this article aimed to discuss the evolution of the legal system before the Disarmament Statute and the social impacts for present time.

2. METHODOLOGY

This is a descriptive study, which used documentary research whose analysis of documents was based on Thematic Content Analysis according to Laurence Bardin (2011). The documentary sources were: the Disarmament Statute, established by Law 10,826 of December 22, 2003, which provides for registration, firearm and ammunition possession and sale, on the Brazilian National Firearms System (SINARM - *Sistema Nacional de Armas*), which defines crimes and gives other arrangements; Law 13,964 of December 24, 2019, in force, which amends Law 10,826/2003 and improves criminal and criminal procedural legislation; the Universal Declaration of Human Rights; and the Constitution of the Federative Republic of Brazil. These document sources were consulted and analyzed from August 2019 to March 2020. These documents are publicly accessible on the federal government's online sites.

“Documentary analysis aims to provide a convenient form and represent this information in another way, through transformation procedures [...] with maximum relevance considering the qualitative aspect” (Free translation) (BARDIN, 2011, p. 51).

Documentary research was used in order to provide greater understanding of Constitution of the Federative Republic of Brazil' influences on Disarmament Statute. The analysis was anchored in the content of legislation that refer to the Statute in legal and historical perspectives as well as in scientific articles published on the subject. Four stages were followed: pre-analysis, which was characterized by the choice of documents; assumption formulation and preparation of material for analysis; material exploration, which took place through classification, indexing and thematic categorical analysis of selected documents; data treatment, with inference and interpretation (BARDIN, 2011).

After analyzing the data, five categories emerged: *Fundamental principles; Constitutional law and Law 10826 of December 22, 2003; The Disarmament Statute and the Constitution of the Federative Republic of Brazil;*

Disarmament in Brazil; Impacts and questions regarding Law 10,826 of December 22, 2003.

This research method enabled knowledge of the past in relation to the institutionalization of Disarmament Statute and the social and cultural response to legislated actions.

3. RESULTS AND DISCUSSION

The categories originated from the analysis, in order to descriptively discuss the theme, present, first, the *Fundamental principles*, which highlight the primacy of the Constitution of the Federative Republic of Brazil in the exercise of fundamental rights and guarantees for social development. In the second category, *Constitutional law*, it was discussed that the right to life, dignity and security is anchored by constitutional provisions.

The third category, *The Disarmament Statute and the Constitution of the Federative Republic of Brazil*, deals directly with the protection of the constitutional right to life and safety, contributing to the normative effectiveness when applied. *Disarmament in Brazil*, as the fourth category, presents how Brazilian society deals with the theme. Finally, the fifth category, *Impacts and questions regarding Law 10,826 of December 22, 2003*, discusses the impacts and questions brought by Law 10,826, of 2003 for arms control in the country and preservation of fundamental rights and principles.

3.1. Fundamental principles

The 1988 Federal Constitution established, in its first title, in art. 1, respect for fundamental principles, providing that:

The Federative Republic of Brazil, formed by the indissoluble union of States and Municipalities and the Federal District, constitutes a Democratic State of

Law and its foundations are sovereignty, citizenship, human persons' dignity, the social values of work and free enterprise, political pluralism (BRASIL, 1988, art 1) (Free translation).

Some scholars on the subject sought to conceptualize and better define the fundamental principles and their purpose, such as Reale (2002, p. 60), explaining that “principles are, therefore, fundamental truths or judgments, which serve as a foundation or guarantee of certainty to a set of judgments, ordered in a system of concepts related to each portion of reality” (Free translation); e Alexy (2011, p. 72) defines them as “optimization commandments as the principles can be seen in varying degrees” (Free translation).

The concepts related to the principles cherish the common good, a dignified and egalitarian life, in addition to supporting the regulation of laws. In general, they are considered universal; however, in certain situations, they can be seen in a singular way, having different applications (MUNHOZ, 2017).

The application of the principles must accompany the concrete case, as they have different weights according to the real situation. Thus, “the theory of principles does not matter in the abandonment of rules or legislated law. In order to adequately satisfy the demand for security and justice, the legal system should have its rules distributed, in a balanced way, between principles and rules” (Free translation) (BARROSO, 2009, p. 33).

The principles are very relevant, due to the flexibility they have, as they allow the Magna Carta to be placed in a sovereign way, but admitting changes present in the heart of society. As they are directly related to values, they encompass ethical issues that cannot be violated, being an even greater guarantee for those who depend on the constitutional order to use the legislation together with the principles. Thus, legal regulation is of paramount importance, but it is necessary that the principles accompany and be the basis of legislation, to achieve legal security and stability (MUNHOZ, 2017).

To speak of fundamental principles is to convey the fundamental rights established in the Federal Constitution. The *Carta Maior* instituted a Democratic State of Law, which could not exist without the presence of fundamental

principles and rights, neither the opposite. Democracy guarantees the principle of freedom, brings civil and political prerogatives, as well as social rights based on equality between human beings, essential for a dignified life (DERZI, 2018; SILVA, 2017, p. 153).

With the 1988 Constitution, “everyone is equal before the law, without distinction of any kind, guaranteeing Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, -security and property” (Free translation) (BRASIL, 1988, Art. 5). Thus, “the rights and guarantees expressed in this Constitution do not exclude others arising from the regime and principles adopted by it, or from international treaties to which the Federative Republic of Brazil is a party” (Free translation) (BRASIL, 1988, Art. 5, § 2). There is enough flexibility to consider the possibility of emerging new rights and reaffirming other human rights, whether or not belonging to our country. Therefore, the Brazilian Federal Constitution must be favorable to society, expressed through well-designed public policies, in which human rights and social respect are identified (MARIN, 2012).

Among the rights and duties established in the Constitution that aim to ensure the individual and social well-being, the rights to life and safety are part of the certainty of public order and the safety of people and their properties. The Civil and Penal Code also provides for the defense of these rights, which shows the dimension existing in constitutional norms that have the purpose of protecting society’s life and intangibility (MARINO, 2017).

Several legislations were created with the objective of enforcing what is provided in the Federal Constitution, in order to guarantee the social rights to liberty, security, life and property, fundamental prerogatives for social development. The State has a duty to resolve conflicts and challenges of the country and seek peaceful and egalitarian results in accordance with the community’s demands in a dignified manner (BRASIL, 1988).

Since the fundamental principles guide social norms, it is necessary to constantly study the social reality and priorities, according to the theme of Disarmament Statute, legislation that regulates a relevant issue for all society.

3.2. Constitutional law and the right to life

It is understood that the right to life is a basic prerequisite for exercising other rights, such as freedom and equality. The Constitution establishes, in art. 5, of the Individual and Collective Rights and Duties, item XLVII, paragraph a, which “there will be no death penalty in Brazil, except in case of declared war” (Free translation) (BRASIL, 1988). The rule that the State itself cannot declare the death penalty makes evident the importance of preserving life. This right is very broad and can be seen in many ways both in the aspect of birth and death, which must be exercised in a dignified manner (DERZI, 2018).

The breadth of the right to life can be seen from the right to defense and the duty to protect. A country must protect itself in all ways to protect life, even if this may violate other rights. When it comes to defending the right to life, public authorities have the task of acting in prevention and protection, while other members of society must avoid achieving this right and repressing aggression. This action in the legal world through Criminal Law is remarkable, the State must act in order to achieve this protection, preventing violent deaths from occurring and investigating the risks related to life (MAZZAROBA, 2012).

Another essential right associated with the protection of life is the constitutional guarantee of security, which covers not only social security in general, but also individual, internal and external security, regardless of social class. At the level of human rights in the world and the prerogatives acquired after the entry into force of the 1988 Constitution, protecting public order becomes a very extensive task, as this must be done with respect for the dignity of human persons and fundamental rights. The defense becomes broader, as it must reach not only the individual himself, but also his heritage, reaching the concept of public security, which goes beyond and seeks to preserve the foundations established in the Federal Constitution (BATISTA, 2017).

In its essence, exercising public safety consists of monitoring, preventing and repressing conduct that threatens people’s tranquility through police activities and other means found by the State. The biggest demands are related to crimes against life and property. In relation to individual security, the

intention is to preserve the freedom to come and go, with the State being the greatest responsibility, as it has the capacity to exercise great coercive power against illegal acts. In relation to public order, this is present through the State guarantee action, acting to prevent the occurrence of illegal activities and create punitive methods for those who caused harm to third parties, using police support as a means of intervention (MARIN, 2012).

Art. 144 of the Federal Constitution deals with the defense of the State and democratic institutions, addresses public security as “the State’s duty, the right and responsibility of all, it is exercised for the preservation of public order and the safety of people and property, through the following bodies: I- federal police; II- federal highway police; III- federal railway police; IV- civil police; V- military police and military fire corps” (Free translation) (BRASIL, 1988).

Through this definition, it is shown that there is a concern of the State in the realization of delimited constitutional rights. It is observed that there are several bodies responsible for exercising it, as it is complex, systemic and comprehensive.

Public safety involves the duty of government officials at the Federal, State and Municipal levels, everyone’s right and responsibility. Preventive actions, such as education, health, employment and family structure, legislative actions that meet social demands, inspection and repression must be carried out by the police in conjunction with the Public Ministry and the Judiciary. In addition to these demands, there is a factor of great impact, which is inmates’ resocialization, their reception by society and the impact on everyone’s life and safety (CARVALHO, 2016).

Therefore, public safety involves a range of actions aimed at satisfying the collective interest. Basic issues, such as education, financial conditions and family support, are fundamental to structuring the population and preventing criminal attitudes. It is not a simple matter to resolve social conflict, as it roots historical experiences in the social structure.

3.3. The Disarmament Statute and the Constitution of the Federative Republic of Brazil

When considering the right to life and security, it is essential to highlight the main public policy related to the subject *Law 10.826 of December 22, 2003*. Known as Disarmament Statute, it provides for firearm and ammunition registration, possession and sale under SINARM, defining crimes. The Statute aimed to reduce the number of firearms in circulation in the country and, with that, to reduce violence. It is known that, in order to create legislation, it is extremely important to assess the factors that motivate it, the impacts generated and social acceptance (BRASIL, 2003).

Historical accounts show that the first movements in favor of disarmament in Brazil began in 1997, when concerns about the control of firearms arose. From this, some actions were taken to reduce the number of people circulating with guns (OLIVEIRA, 2018); after all, among deaths from external causes, those from firearms stand out (SZWARCOWALD; CASTILHO 1997). In 2003, the Silent March was organized, in which the shoes of victims hit by firearms were placed in front of the Brazilian National Congress (OLIVEIRA, 2018), a legitimate social participation.

Considering the demonstrations and this act in Congress, deputies and senators formed a commission to deal with the issue, which gave rise to Law 10.826/2003. Later, in 2005, there was a plebiscite based on the Disarmament Statute, with the purpose of hearing the population's opinion about the possibility of commercializing firearms. The result evidenced the decision in favor of commercialization, provided that the legal determination is observed. Over the years, changes have taken place, but this was an evolutionary milestone for the country in general. (OLIVEIRA, 2018).

The Statute is directly related to the right to security established in the Federal Constitution and complies with art. 144, which deals with public safety as the State's responsibility. The Constitution does not expressly provide whether citizens may or may not have a firearm (BRASIL, 1988). Despite the

referendum and the drafting of this important law, opinions on disarmament diverge.

Opinions against disarmament believe that there would be greater security in society if personal security involved firearm use. Those who hold the opposite opinion are based on the culture of the form to disarm and hinder access to firearms, unlike other countries. The Statute implementation of for greater control over the location of firearms and stricter acquisition, which would become essential to achieve public safety. However, firearms used for crimes are mostly acquired illegally through smuggling. The point is that, until today, in the country, both positions have strong arguments (OLIVEIRA, 2018).

Regardless of opinions, since the creation of the Disarmament Statute, the country has started to have greater control over the firearms in circulation both with regard to civilians and in the case of security companies. The requirement is that only registered firearms could be in civilian possession, at their place of work or at home, gun possession has become even stricter. It was better observed the personal and psychological conditions of those who would be authorized to possess or carry a firearm, limiting the age of 25 years as a minimum to request the firearm with the Federal Police (CARVALHO, 2016).

Over the years, some changes have been made to the Statute, such as unenforceability for the crime of carrying firearms, art. 14 of the Statute, understood by the Supreme Federal Court as unconstitutional, considered crimes of mere conduct, not compared to crimes that generate concrete danger. Another amended article was 21, which prohibited provisional liberty to those who committed crimes of illegal firearm of restricted use, illegal trade and international trafficking, as it applied the principle of presumption of innocence (BRASIL, 2003).

There were several manifestations regarding the Disarmament Statute regarding social evolution from the creation of this legislation and its impact on the country, in addition to what has been experienced and discussed worldwide. There are favorable and unfavorable positions on the subject, as explained above, but it is important to discuss how the presence of Law 10,826 of 2003, and the changes that occurred therein.

3.4. Disarmament in Brazil

Disarmament policies have long been adopted by several countries, including Brazil, with the aim of reducing the circulation of firearms to reduce various forms of violence, including the occurrence of suicide (SOARES et al., 2015). One of the first legal actions related to the implementation of advances in favor of disarmament took place in 1996, the year of enactment of Law 7865/1996, relating to SINARM, which defined the illegal firearm possession as a crime, in addition to other measures related to control of firearms. In 2003, the Disarmament Statute further restricts firearm possession and conditions for acquisition, transport, use, among other rules (BRASIL, 2003; BRASIL, 1996).

According to studies carried out in the United States, by a group called the Law Center, with the purpose of preventing armed violence, stricter laws generate more favorable results in relation to firearm-related deaths. A research carried out by Harvard University showed that the majority of people killed by firearms were not harmed by third parties, in fact they occurred by suicide, and this number is twice the number of deaths caused by homicide. A survey carried out by the Map of Violence in 2015 showed that more than 160,000 people were saved from death, on average, after the approval of the Disarmament Statute (HEMENWAY, 2015).

According to data from 1980 to 2014, published by the Institute of Applied Economic Research, 967,851 thousand people died in firearms in Brazil, and in 2014, firearms killed four times more than AIDS. Disarmament Statute had a total reduction balance of 133,987 thousand homicides. Brazil is among the 10 countries where the most firearm-related deaths occur in the world, according to the 2016 violence map. The Atlas of Violence shows, in 2019, that violence by firearms increased by 6.8% in the country between 2016 and 2017, also evaluating that, in the city of Rio de Janeiro, it was higher, 9.8% (IPEA, 2019).

Based on the data presented, it was noticed that, on average, more than one million Brazilians lost their lives as victims of firearm violence between 1980 and 2017, taking into account, according to the interpretation of the team

responsible for research in the Atlas of Violence, that the numbers could have been higher if it were not for the entry into force of the Disarmament Statute. Since the adoption of the standard, the average rate of increase in deaths by firearms was 0.85%, seen as positive in relation to the fourteen years prior to the Statute, where an increase of 5.44% was registered. The Brazilian states and the Federal District show different provisions regarding the homicide rate throughout history, with a greater increase in deaths in Ceará and Acre being highlighted. (IPEA, 2019).

Over time, Brazil often goes through difficult phases in different areas, political, social, disdain for public health, rising unemployment and lack of security. Many popular movements took place in retaliation for injustices and lack of attention of the Government in relation to the demands of society, such as demonstrations seeking changes in the democratic system, impeachment of politicians, among other situations. In relation to so many reasons for protests, there is a strong concern with public safety that is demanded by the population, often wanting to take justice into their own hands or have the right to defend themselves in the face of a threat (ALEIXO, 2015).

Thus, the Disarmament Statute emerged, with the objective of reducing the number of deaths by firearms in the country, with the intention of saving lives, reducing homicides, accidents and suicide (BRASIL, 2003).

The Statute brings some important determinations, regulates the carrying of firearms only for certain groups of people, such as those responsible for public security, police, intelligence agents, prison guards, tax auditors and private security agents on duty. As a rule, for civilians, carrying firearms is prohibited, with some exceptions in case of residence in risk areas; in general, only possession at home or in the workplace is easier. When the mobilization for the seizure of firearms and reduction of circulation throughout the national territory was made official, even a reward was offered to encourage the population to disarm, which enabled the delivery of many firearms by the population (BRASIL, 2003).

According to Law 10,826 of 2003, some requirements must be observed for the acquisition of firearms, as provided for in art. 4 of said law:

Art. 4 In order to acquire a firearm for allowed use, the interested party must, in addition to declaring the effective need, meet the following requirements:

I - proof of suitability, with the submission of clearance certificates from criminal records provided by the Federal, State, Military and Electoral Courts and not responding to a police inquiry or criminal proceedings, which may be provided by electronic means;

II – presentation of a document proving lawful occupation and correct residence;

III - proof of technical capacity and psychological aptitude for handling firearms, attested in the manner provided for in the regulation of this Law.

(Free translation)

After the interested party fulfills the determined requirements, the former SINARM will ask for authorization to purchase a firearm, which will be very personal, therefore, it cannot be transferred to third parties. In addition to this, rules are determined on the trading, transport, caliber, criminalization, firearm possession, among other situations. It is important to note that the Firearm Registration Certificate, which is valid throughout the country, determines that the owner must keep the firearm exclusively inside their residence or domicile or in their place of work, provided that own (BRASIL, 2003).

It is observed that, with the creation of the Statute, it was necessary to bring together various bodies, especially security, to fulfill the description and effectively achieve the objective of public bodies and society. Creating a standard and approving it is something that is done frequently, however, in practice, there are not always facilitators for its implementation. Changing social customs, sensitizing people and even establishing attitudes towards public servants and bodies is not something simple and should be analyzed in the long term.

3.5. Impacts and questions regarding Law 10,826 of December 22, 2003 and its amendments

After years of validity of the Statute, many questions were raised regarding the norm functioning and effectiveness. We have two dichotomous sides, as one believes that the Statute came to reduce violence, and the other

part does not believe in its effectiveness. The essential thing is to analyze the validity of the acts proposed by the government and really seek the preservation of constitutional rights and principles.

On the one hand, there is the understanding that obstacles imposed by legislation would only harm the ordinary civilian population, since it makes access to firearms difficult for those who are considered of good nature, while the bandits would not be affected, because they can easily obtain firearms through smuggling. On the other hand, some believe that facilitating the use of firearms could increase the occurrence of violence in everyday situations and make it easier for criminals to have access to firearms held by the civilian population (MOURA, 2016).

Another argument relates to the fact that, if guns were legally sold in a more practical way to society at large, the illegal trade would be affected and devalued, but at the same time it could increase, as ordinary citizens would have easier access. It also raises the possibility that a civilian, who would have been in firearm possession, reacting to an assault, may not be able to defend himself or herself, causing yet another death and the subtraction of another firearm. It is believed that firearms are used more as a means of attack than protection, concluding that easier access would bring more damage (ALEIXO, 2015).

Firearms at home can increase the suicide rate in families by up to twice as much as in homes that do not have it, and even though this risk persists for up to five years after purchase. As for property protection, in case of robbery in homes, it is analyzed that having a gun at home can be offensive in the face of threats, but it is not a guarantee of security, because many cases are underreported. In relation to this fact, it is believed that the rate of non-recording of occurrences in the case of crimes can reach up to eighty percent, which happens depending on the level of security that the police pass, which varies according to time and region (MOURA, 2016).

In relation to the effective application of human rights, the questioning is associated with the fact that there is a citizen's right to legitimate defense regarding the preservation of freedom, physical integrity, life and assets. On the

other hand, it considers the nation's social reality, the evolutionary level of people living in the region and education, not a simple comparison with a country where firearms are released and violence reduction occurs. Where there is no evolved ethical and moral condition, there is a certain fear in dealing with the release of firearms, especially when, in most cases, firearm violence occurs for futile reasons or at home (MEZZAROBA, 2012).

In 2019, with the takeover of a new president of Brazil and by the initiative of some deputies, the governor issued Decree 9847 of June 25, 2019, which facilitates firearm possession, as promised in an electoral campaign. The norm changes part of Law 10,826 of 2003 in the article that deals with the effective proof of need to have a firearm: "Art. 4 - To acquire firearms for permitted use, the interested party must, in addition to declaring the effective need, meet the requirements" (Free translation) (BRASIL, 2003).

Before, it was considered that individuals had to demonstrate their reasons to the responsible institution for assessment and proof of need. After the aforementioned decree, some groups do not need to attest to the need, namely: public agents, including those inactive in the police area; penitentiary administration; residents in urban areas, whose homicide rate in 2016 is greater than ten homicides per 100,000 inhabitants, according to data from the Atlas of Violence (2018); holders or legal guardians of commercial or industrial establishments, among others. Moreover, the Decree increased the validity period of the authorization from five to ten years and states that, for those who have children or elderly people at home, they must prove that they have a safe or other safe place, with a lock, to store the firearm (BRASIL, 2019; IPEA, 2018).

Regardless of the Decree approval, there is still no data that the population, in its majority, defends the right to possess firearms. There are different opinions on the subject according to gender, social class, education, however, those with a better income value the right to arm themselves to protect their assets, which is not always the case. Critics regarding the Decree legality are exposed in relation to the need for approval by the Chamber of Deputies and the Federal Senate (SILVEIRA, 2018).

In contrast, to what was established by Decree 9847 of 2019, Law 13926 of December 24, 2019 was created, known as the “anti-crime package”, which also deals with some matters discussed by the Disarmament Statute. The penalty of imprisonment increased in case of prohibited use of firearms, illegal possession, illegal trade and international traffic of firearms, with specific recidivism being more serious, among other changes. In this way, the importance of arms control and the population’s awareness of the issue is reaffirmed, since the social reflex of disorganized arming is great (BRASIL, 2019; FABRETTI, 2019).

The modifications provided for in Decree 9847/2019 do not have constitutional legitimacy to change the Disarmament Statute, since, usually, a norm can only be modified by another one of equal or superior value hierarchically. Law 10,826 of 2003 has been in force for years and could only be modified by other legislation, not by mere regulation made in a presidential decree. The Constitution of the Federative Republic of Brazil does not establish as powers of the President legislative changes without approval by the Brazilian National Congress, an issue that has been raised since the entry into force of the provision. (BRASIL, 1988; BRASIL, 2003).

Therefore, it is observed that preserving life and reducing violence should be a State’s essential concern, which acts as a guarantor of social prerogatives; from time to time, laws are discussed and approved by the Brazilian National Congress. It happens that, often, laws are designed only in a political and not practical way, as validating social problems and solving them is not a matter of simple scoring. It is important, before legal impositions, to carry out social impact surveys, so that, in general, the norm achieves its due purposes.

4. CONCLUSION

Considering all that has been explained, the need for attention that the topic deserves is perceived, as firearms have a social impact, in addition to

being questioned by various population segments. Crime is a complex and multifaceted phenomenon; therefore, it cannot be analyzed in one way. It is clear that the essential is not to set up, but to develop more efficient policies related to the criminal system, the exercise of fundamental rights and the implementation of a prison model that can actually apply resocialization, among other particularities that lead us not to call for firearms.

There are reflections regarding the absence of ancillary policies so that the rule can function and reduce firearm-related violence, which does not invalidate the benefits brought by the legislation. It is important to emphasize that the Constitution of the Federative Republic of Brazil came to bring previously unused prerogatives, exposing rights to life, human dignity and security, which should be guaranteed by the State. It is known that it is difficult to control and please all citizens, especially when dealing with such a controversial issue, but what must be analyzed are the benefits that will be provided to society without violation of rights, without using only a weight for this analysis, but looking at social and individual impacts for Brazilians.

It is important to demystify the concept that, in any situation, firearms will bring security and the other way around. There is no closed account on the effects that a firearm can have, even if it is legally acquired. We know that it is an object of high harm power, so it is important to educate the population in order to deal with the situation, in addition to reducing the occurrence of violent and lethal situations. For this, the participation of the State and society is essential, in addition to walking together to solve the problem and reduce negative impacts through public policies and awareness, not just dictating norms.

Thus, we sought to elucidate the development that exists regarding the Disarmament Statute and its social consequences, through documental analysis and scientific literature, in particular the constitutional details existing in Law 10,826 of 2003, Decree 9847 of 2019 and Law 13964 of 2019, evolution and changes made. It is noteworthy that it is important for society to discuss the issue, seek to improve the legal and social framework in relation to disarmament and the reduction of violence in the country.

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