



SUSTAINABILITY AND ENVIRONMENTAL RESPONSIBILITY IN BUSINESS

Viviane Brigido¹

Summary:

The article aims to present studies on the theme Sustainability and environmental responsibility in large Brazilian companies. The general objective of the article is to analyze the way in which large Brazilian companies adopt environmental responsibility and sustainability in their organizational strategies. Through the bibliographic research method it was possible to demonstrate in the results the concepts of environmental responsibility and sustainability, Brazilian laws and the modus operandi of sustainable strategies and environmental responsibility.

Key words: Sustainability, Responsibility, Environment;

1. INTRODUCTION

The article aims to present studies on the theme Sustainability and environmental responsibility in large Brazilian companies. The choice of this theme is justified, highlighting the specificities of the knowledge obtained during the specialization course in Strategic Administration.

In addition, it is justified because it is a relevant study for the academic scope and society. For the academy, this research aims to demonstrate the importance and responsible commitment as an environment that managers of large Brazilian companies owe when developing products and services and in their commercialization in accordance with the theoretical postulates of Srour (1998), Mascarenhas and Costa (2011) and Mcgrath (1997), in addition to other theoretical references that emphasize studies on the theme addressed in the article.

For society, the article will be relevant to confirm the positive and negative consequences of large Brazilian companies that have adopted environmental responsibility

¹Faculdade Está cio-SEAMA-viviane.brigido@hotmail.com

Sustainability and Environmental Responsibility in Companies

and sustainability in their organizational strategies as an aspect of philanthropy in the corporate sphere. And so, discriminating aspects of the involvement of these companies in the creation of policies and programs to adopt responsibilities in the ethical, legal and economic context, in accordance with the theoretical postulates of Gomes (2000) and Rego (2002).

Therefore, it was intended to seek answers to the following problem: How in Brazil, do large companies adopt environmental responsibility and sustainability in their organizational strategies?

The general objective of the article is to analyze the way in which large Brazilian companies adopt environmental responsibility and sustainability in their organizational strategies.

The specific ones sought to: conceptualize environmental responsibility and sustainability according to theoretical postulates; analyze how Brazilian laws address environmental responsibility in strategic business planning; understand how the literature describes the factors that led to the emergence of organizational strategies of large Brazilian companies with environmental responsibility and sustainability.

In order to achieve the proposed objectives, it was decided to use the bibliographic research method to, through the critical interpretation of books and scientific articles, address the theme of the article.

The first topic deals with environmental responsibility and sustainability, emphasizing how the theoretical frameworks show the evolution of the conceptual organization and the specificities of its implementation in the business environment.

The second topic describes the approach of Brazilian laws on environmental responsibility in strategic business planning.

The third topic describes the modus operandi of managers to highlight the benefits of sustainable strategies and environmental responsibility for business success and business maintenance.

2 ENVIRONMENTAL RESPONSIBILITY AND SUSTAINABILITY - CONCEPTUAL ANALYSIS

Sustainability and Environmental Responsibility in Companies

The approach starts with the proposition and definition of the environmental responsibility of companies as “constituting an organizational citizenship within the company and to program social rights abroad” (SROUR, 1998, p. 295).

2.1 ENVIRONMENTAL RESPONSIBILITY

The environment is fundamental for the continuity of human life and, consequently, of the community in all its social, cultural and environmental aspects. For this reason, it is characterized as “[...] interaction of the set of natural, artificial and cultural elements that provide the balanced development of human life” (SILVA, 2003, p. 435).

The definition emphasizes the collective constitution of a company's role in adapting its standards to the ethics recommended by a community and, therefore, proposing the construction of a company's image as if it had been concerned with the social and environmental issues in order to provide its services and products, adding such values as a competitive strategy and guaranteeing sustainability.

In other studies, authors address the conceptual relationship of environmental responsibility with the actions of specific groups, the so-called stakeholders, who according to Werther and Chandler (2006) can be identified in three distinct groups: the social ones (people from social groups, members of society, representatives of governments and regulatory bodies, shareholders of organizations); the economic ones (action of financiers, distributors and suppliers to guarantee environmental responsibility); and, the organizational ones (members of small, medium and large companies - employees, managers, shareholders and unions that promote environmental responsibility in internal policies and programs to reflect it externally).

Environmental responsibility has a strict relationship with the social, as it takes place through constructivist programs and policies relating to the internal reality as a means of external understanding, that is, products and services that will be ethically prepared to make society (customers) a relationship of protective consumption of the environment and sustainable concern in producing for consumption with concern for the future of the nation and the world. Thus, one can affirm the existence of dimensions of environmental responsibility: of environmental knowledge / information; of practices, strategies, ecological concerns; and symbolic (attitudes and values) (MASCARENHAS; COSTA, 2011).

Sustainability and Environmental Responsibility in Companies

2.2 SUSTAINABILITY IN THE CONTEXT

Sustainability, “is directly linked to alternative sources of renewable energy and the environment” (Silva, 2009, p. 88). Its concept emerged in the 1970s when the media and agendas around the earth began to guide the defense of the environment as a public policy, so that humanity could avoid the occurrence of an unprecedented possible environmental crisis (MCGRATH, 1997).

The environment can be understood as a fad, a luxury for rich countries, or a myth without the need to be preserved or protected environmentally. But the risks and consequences of degradation are increasingly present in the climate and other conditions of interference in biomes.

Therefore, sustainability is proposed to formulate, apply and manage policies and programs so that social demands are guaranteed natural resources for the survival of present and future generations, as a guarantee of norms and ethical business conduct to capitalize resources through proposed organizational strategies to protect the environment, with minimalist degradation (MEIRELLES, 2013).

Just to cite an example, the case of the United Nations Environment Program (UNEP) which since 1980 has created global strategies to reduce human degradation of the environment through the adoption of conservation with sustainability, that is, with guarantees of natural resources for the next generations do not suffer from the loss of life and diversity.

There are attitudes that must be adopted in companies and by members of society, such as: limiting the use of chemicals that are harmful to rivers and air; limit the extraction of depleted natural resources when it cannot be avoided - companies must replace them; limit the capitalized culture of exotic plants so as not to harm the soil and the ecology; reduce the volume of waste and pollution; limit the consumption of materials that cause environmental degradation; invest to create technologies that produce low waste content; create standards for sustainability in the use of environmental resources by companies and society (MILARÉ, 2005).

3 STANDARDIZATION TO LARGE COMPANIES IN THE NATIONAL TERRITORY

Sustainability and Environmental Responsibility in Companies

Currently, there is a wide range of laws and regulations in Brazil that demonstrate the importance of environmental responsibility for large companies and for carrying out organizational strategies. They are laws created with the purpose of preserving and protecting the environment through instruments created to meet each specificity and possible applicability (ANTUNES, 1998).

3.1 ENVIRONMENTAL RESPONSIBILITY “SUI GENERIS”

The legal provision transcribed in art. 3, I, Law No. 6,938 / 81, demonstrates the legislator's concern to apply a law in which no situation can be characterized as harmful to the environment, that is, that guarantees individuals and legal entities to carry out policies and programs to account for possible damage to the environment.

The bases of the evolution of society have caused transformations that demonstrate an extraordinary series of consequences for the life of human beings on the planet. The State, when concerned with the environmental issue, created punitive laws for damages (pollution and degradation) caused by factories, industries and people. Therefore, it should be noted that these damages stem from the lack of responsible strategies for harmful consumption, linear waste production, a culture of competition and domination of the environment (BRAGA, 2014).

It was in the Civil Code in 1916 that the first legal precepts for protecting the environment emerged, but which did not specifically affect society with punishments. Thus, there is the emergence of a multifaceted and sparse right, in which many laws protected environmental issues in various ways: Decree-Law No. 221/1967 that instituted the so-called Fisheries Code; Law No. 6,803 / 1980 refers to the Environmental Impact Study; Law No. 6,938 / 1981 deals with the National Environment Policy; Law No. 7,803 / 1989, which created the Forest Code, considered the act of using chainsaws in legal reserves to be illegal;

Brazil was late in expressly contemplating the environmental issue in the laws. Coming to be organized in the Federal Constitution of 1988 as necessary to man because it is very common and essential for the quality of life (art. 225). It then became a fundamental right if ecologically balanced. Its preservation targets not only the present generation but also future generations (sustainability) (TOLOMEI, 2005).

Sustainability and Environmental Responsibility in Companies

Therefore, As explained by Tolomei (2005), the constitutionalization of environmental protection in Brazil is very recent and embryonic, considering the 500 years of history. It appears that there are only 28 years of protection provided for in the major law. The 1988 Federal Constitution dispensed with an entire Chapter to protect the environment, Chapter VI of Title VIII, with Article 225, its paragraphs and items.

However, the same author explains that the precepts related to the environment are not restricted to article 225, but also, to others, such as the rule referring to article 170, which describes that the Brazilian economic order, and its development, must, necessarily respect the environment, otherwise let's see:

Article 170, caput: the economic order, founded on the valorization of human work and free initiative, aims to ensure a dignified existence for all, in accordance with the dictates of social justice, observing the following principles:
VI - defense of the environment, including by means of differentiated treatment according to the environmental impact of products and services and their elaboration and rendering processes. (BRASIL, 2004).

The aforementioned precept had its wording given by constitutional amendment nº 42, of 12/19/2003, however, before this EC, there was already a provision in this same item, which revealed the concern of having as one of the general principles of economic activity defense of the environment.

The need to ensure the natural basis of life (nature) puts new nuances in economic policy. It is, in fact, the great challenge of economic policies. The obvious need for a sustainable relationship between industrial development and the environment is exactly the same as the irreversibility of modern society's dependence on its technical and industrial advances. Thus, any economic policy must ensure the development of economic activity and all its technological instruments adjusted to the conservation of natural resources and with an effective improvement in the population's quality of life. (DERANI, 2007, p. 239).

The principle contained in item IV, of article 170 of the Constitution, reveals the need for an economic development compatible with the environment, keeping it ecologically balanced, thus generating the development and sustainable use of natural resources, neutralizing economic growth, and the consumer market, with the quality of life and the ecological environment in which the individual is inserted. There is a close relationship between the economy and the environment, and therefore economic development, based on the sustainability of natural resources (DERANI, 2007).

Sustainability and Environmental Responsibility in Companies

The challenges linked to the protection of natural resources and the maintenance of the population's quality of life are associated with the implementation of a development model, with minimum conditions, but with sustainability. In other words, it is necessary to recognize that a series of values and attitudes are sustainable, while others are clearly unsustainable - not necessarily so that the individual, in his own logic, but for nature and society, current and future.

Still in this legal chronology, other laws were also created so that the environment had a legal and autonomous value, such as: Law No. 9.433 / 1997 instituted the National Water Resources Policy; Law No. 9,605 / 1998 that punishes those who cause environmental crimes; Law 9.985 / 2000 on the creation of protected areas and conservation units.

3.2 PRINCIPLES DEMONSTRATING THE ENVIRONMENTAL RESPONSIBILITY OF LARGE COMPANIES

In consecrating the environment as a fundamental human right, the Federal Constitution of 1988 also enshrined, explicitly or implicitly, the most relevant principles of Environmental Law.

The legal principle is “an implicit or explicit logical statement that, due to its great generality, occupies a preeminent position in the vast quadrants of Legal Science” (CARRAZA, 1998, p. 88).

For this reason, the principles play an especially important role compared to other sources of law because, in addition to affecting the rule of application of law in the practical case, they also influence the production of other sources of law. Thus, the 1988 Federal Constitution and Law 6,938 / 81 express the basic principles of Environmental Law, which are as follows:

The Principle of Sustainable Development(art.170, VI, cc. Art. 225, V, of CF / 88, and arts. 4 and 5 of law 6.938 / 81). This principle seeks to reconcile economic and social development and preserve the quality of the environment. Thus, in order to achieve sustainable development, protection of the environment must be an integral part of the development process and cannot be considered in isolation from it.

The Federal Constitution of 1988, in Article 225, item V, provides that the public authorities, in order to ensure the right to an ecologically balanced environment, must “control

Sustainability and Environmental Responsibility in Companies

the production, commercialization and use of techniques, methods and substances that pose a risk to quality of life and the environment”(CARRAZA, 1998, p. 89).

Sustainable production can be summarized in two basic points: economy and rational use of energy and raw material, conserving natural resources. The principle is not intended to prevent economic growth, but seeks to determine that activities are developed using all the means made available for the least possible degradation.

B. Polluter pays principle(art. 225, 3rd of the CF and arts. 4, VII and 14, ° of the law 6.938 / 81). This principle seeks to enshrine the idea that those who pollute will have to bear the costs of repairing the damage caused. In other legal systems it is called the principle of the person responsible or responsible. The constitutional provision for this principle is found in Article 225, § 3 of the Federal Constitution of 1988, which determines the conducts and activities considered harmful to the environment will subject violators, individuals or legal entities, to criminal and administrative sanctions, regardless of the obligation to comply. repair the damage caused. Thus, three orbits for repairing environmental damage are identified: civil, criminal and administrative.

ç. Principle of Prevention (or Precaution),(art. 225, IV, and art. 9, I, III, V of Law 6.938 / 81). This principle seeks to prevent the occurrence of environmental damage. This is undoubtedly one of the most important principles of Environmental Law, given the complexity of repairing environmental damage, since it is difficult to restore status in a degraded area. "It is known that many environmental damages are compensable, but under the technical vision of difficult or impossible repair" (CARRAZA, 1998, p. 92).

Thus, it is extremely important to prevent the occurrence of damage, using instruments for this purpose, such as the EIA / Rima (Environmental Impact Study / Environmental Impact Report), tax incentives and possibly legislation that imposes severe fines and sanctions used. as a way to prevent harmful action.

In this sense, Article 225, § 1, IV of the Federal Constitution of 1988 determines the need to carry out EIA / Rima for works or activities potentially causing significant degradation of the environment and item V provides for the control of production, commercialization and employment techniques that compromise risk to life, quality of life and the environment.

It should be noted that there is a positioning that identifies the principle of prevention on the one hand and the precautionary principle on the other. The prevention principle would

Sustainability and Environmental Responsibility in Companies

be applied in order to prevent damage to the environment, through the imposition of protective measures in cases of risks or impacts already known to science. The precautionary principle, in turn, would be invoked in the case of unknown risks or impacts, suggesting early care and caution for the release of an activity whose effects are not yet scientifically certain. The quarrel between the expressions is not ruled out, making the principle of prevention generally applicable, encompassing precaution, of a more specific character.

d. Principles of participation, (art. 225, § 1, VI of the Constitution, and art. 13 of law 6.938 / 81). This principle, already listed in the caput of article 225, provides for a joint action by the public authorities and society in protecting the environment. To carry out this action together, information and environmental education are necessary means (art. 225, § 1, VI, CF / 88).

In this regard, the implementation of Environmental Education, already enshrined in Law 9,795 / 99, duly regulated by Decree 4,281 / 02, which established the National Environmental Education Policy, which seeks to preserve the environment through the construction of social and attitudes towards the preservation of this good.

and. Principle of the social and environmental function of property, (art.170, III and VI of the Federal Constitution, cc art. 1, 225, § 1 of the Civil Code). This principle seeks to affirm that the right to property must be exercised taking into account the notion of environmental sustainability. The social function of property is not limited to rural property, but also urban property. It also includes ownership of movable and immovable property.

f. Limit principle, (art. 225, § 1, of the Federal Constitution and art. 4, III cc art. 8 VII VII Art 9, I of Law 6.938 / 81). In this principle, it is the duty to establish the emission patterns of particles, noise and the presence of foreign bodies in the environment, in view of the need to protect life and the environment itself.

g. Principle of cooperation between peoples, (art. 4, of the Federal Constitution and art. 4, V of law 6,938 / 81, cc art. 77 and 78 of Law 9,605 / 98). In the environmental area, this principle stands out due to the fact that aggressions to the environment are not registered within the territorial limit of the country in which they occur, but, on the contrary, they can spread to neighboring countries.

International cooperation for the preservation of the environment determines that safeguarded: national sovereignty, public order and good customs, the Brazilian government will provide, with regard to the environment, the necessary cooperation with another country,

Sustainability and Environmental Responsibility in Companies

and must also maintain a system of communication capable of facilitating the rapid exchange of information with organs from other countries (articles 77 and 78 of Law 9,605 / 98).

In the Brazilian Environmental Law, Law 6.938 / 81, it is important to consider the focus given to environmental problems, which are conceptualized as:

- Environmental damage - It is the damage to environmental resources with consequent degradation, adverse change or in pejus, of the ecological balance;

- Environmental degradation - It is the adverse, unfavorable change in the characteristics of the environment;

- Pollution - It is the degradation of environmental quality resulting from activities that, directly or indirectly: harm the health, safety and well-being of the population; create adverse conditions for social and economic activities; affect the aesthetic or sanitary conditions of the environment; launch materials or energy in disagreement with the established environmental standards (art. 3, III of Law 6.938 / 81);

- Environmental impact - any change in the physical, chemical and biological properties of the environment, caused by any form of matter or energy resulting from human activities, which directly or indirectly affect health, safety and good, is considered an environmental impact. -being of the population; social and economic activities; the biota; the aesthetic and sanitary conditions of the environment; and the quality of environmental resources (art. 1, I to V of CONAMA Resolution 001/86).

In 2002, the second major summit was held in Johannesburg, South Africa, the “World Summit for Sustainable Development”, (Rio + 10). It was the dream of a better world, with respect to basic human rights, protection of the environment and balanced use of natural resources. However, many thought this summit was a failure.

Green Peace classified it as “nothing for the poor, nothing for the climate” (Sirvinkas, 2003, p. 78), however, despite the failure, the Brazilian proposal on renewable energy targets had an advance, in which, it was obtained the establishment of a global target to increase the share of renewable energy to ten percent in the global matrix.

Ensuring environmental sustainability - the seventh Millennium Development Goal - requires achieving sustainable development standards and preserving the productive capacity of natural ecosystems for future generations. Both efforts require a variety of policies to reverse environmental damage and improve ecosystem management. The challenge has two

Sustainability and Environmental Responsibility in Companies

dimensions: addressing the scarcity of natural resources for the world's poor and reversing the environmental damage resulting from the high consumption of wealthy people.

According to art. 2 of Law 9,605 / 1998, the director, the administrator, the member of the board and technical body, the auditor, the manager, the representative or agent of the legal entity, who, knowing of the conduct someone else's criminal act, to stop impeding its practice, when it could act to avoid it. This law also regulated art. 225, § 3 of CF / 88, providing for the possibility of penalizing the legal entity.

4. SUSTAINABLE MANAGEMENT: ENVIRONMENTAL RESPONSIBILITY

It is necessary that man must be aware when using the resources of the different ecosystems, to cause less damage to the life support systems. According to Lima and Pozzobon (2005, p. 18), the ideal of sustainability has become a new scientific reference for thinking about the relationship between human populations and the environment. There are attitudes that must be adopted such as:

- Limit the use of chemicals that are harmful to the environment;
- Limiting the extraction of natural resources that are depletable when it cannot be avoided, should replace it;
- Limit the cultivation of exotic plants so as not to harm the environment;
- Reduce the volume of waste and pollution;
- Limit the consumption of materials that degrade the environment by individuals from all over the planet, including rich countries;
- Intensify research to obtain low-waste technology;
- Define and implement standards for adequate environmental protection;
- Establish more areas of environmental protection, in addition to the existing ones.

As a comparative criterion, five million years ago, the human species had faced numerous difficulties and challenges, but with its own nature, which was more powerful, and affected them more than it was affected by them. Cultural development and the insertion of man into the modernist view, the power over nature increased, and consequently, drastically hurt the harmonic relationship between both, man goes from dominated to dominator. In the 18th and 19th centuries, the dominant ideology used nature as if its resources were infinite. In

Sustainability and Environmental Responsibility in Companies

the 20th and 21st centuries, this same ideology still persists, wrapped in a selfish, capitalist embryo and full of social and cultural problems.

Environmental degradation occurs throughout the globalized space, making biodiversity its commodity, aiming only at: consumption, profit and power. The result was the suffocation of the environment, where the first signs of extinction of species due to human action can already be seen, in the most radical ways, and why not say the human species itself. With each passing day, the sustainability of the proclaimed nature asserts its unsustainable condition in the midst of man's action.

The threat to nature, its environments and Life, not only demonstrate a greedy and profitable aspect, but the fact that the human species is gradually losing the tradition of peaceful coexistence with its own heritage. Even so, the reminiscences have not dissipated. There was, and still is, a group that succeeded in building a divergent ideology, which in the midst of dominance was fruitful in the awareness of the rational use of what remains of natural resources, inaugurating the movement called “environmental issue”, discussing the importance of the environment for the survival and well-being of the community in the nation.

In the last four decades these debates have become more abrupt and heated, due to the high rate of environmental degradation to which the earth has been subjected. Thus, a significant portion of the population that fails to perceive the close correlation between the environment and their daily lives, has become more participatory and has started to contribute to changing behaviors and attitudes, in a peaceful return to relations with nature.

But, nothing is as peaceful as it seems, in this search to establish preservationist connections, conflicts occur that propel divergent ideologies (environmentalist x capitalist) to fight to conquer the triumph for the domain of nature (referenced to a plot of land that can be protected) destroyed from environmental degradation and human anthropic action).

The environmental problem is accentuated, either by the ease of communication and improvement in the means of transport, or by the need for production that is made to serve an increasingly market, more eager for new products through exacerbated consumption and lack of environmental awareness, and thus capitalism accumulates profits, and the environment counts damages; it is in this context that the concerns about healthy life on the planet begin.

The controversy certainly also contributed so that, throughout these years, the subject evolved in the formulation of concepts and methodologies that supported the State's action in the articulated and political development of the strategy of using the environment with

Sustainability and Environmental Responsibility in Companies

sustainability. However, the more specific approach on the subject, with its multiple interfaces and implications, is far from unanimous, as it inspires seemingly insoluble controversies, in which governments and societies are often faced with complex choices.

Therefore, it cannot yet be said that development and the environment are in perfect harmony. There are still worrying contradictions and major conflicts. In this process, according to the way in which capitalist society organizes production and consumption, new demands and needs are generated permanently, always looking for new products that provide more comfort. As a result, human interference in natural systems is accentuated, which has already been significantly altered or weakened by intensive use.

It is in a situation like this that Leila Ferreira's book, when questioning the model of State management hitherto prevailing, shows to have undeniable value. The great challenge that permeates all the reflection of the author, throughout the 8 chapters that constitute her work, is exactly to evaluate which is the new configuration of power capable of successfully accomplishing the task of institutionalizing environmental policies in an increasingly marked moment :

a) due to the fact that many of the most burning and significant political issues are taking place outside the political sphere until then conceived as "official", that is, outside a space that can be controlled by the State. In this sense, we are witnessing a process in which the subpolitics (of which Ulrich Beck (2010) speaks, starts to have more significant weight in the directions taken by society in the exact proportion in which it is more complex. Entrepreneurs, social movements, scientific societies , unions, etc., politicize and make public issues previously seen either as belonging to the private sphere, or as belonging solely and exclusively to the official political-administrative apparatus;

b) due to the fact that the emerging social demands challenge the hitherto adequate codes and instruments for the management of public life, until recently, capable of providing protection measures to citizens. With the spread of risk situations, the determination of the damages to be compensated, of those guilty of their occurrence, and of those to whom such protection policies should be addressed, it becomes increasingly difficult to be carried out. In such a situation, what would be the best institutional design to be implemented, what role should the State assume? Was he being forced to bid farewell to his traditional tasks of proposing and implementing policies in the face of the emergence of so many new actors on

Sustainability and Environmental Responsibility in Companies

the contemporary political scene and social demands that challenge his conventional *modus operandi*?

At the outset, it must be said that Ferreira's answer (apud Tavolaro, 1999) to these questions is negative: as she herself prefers to reinforce, it seems that only the possibility of action by different social actors would not solve the question. The State must remain a central element for the institutionalization of environmental issues to be possible and for the formulation, implementation and management of sustainability policies to occur successfully.

Currently, destructive environmental impacts occur. Such impacts are characterized by any change in the physical, chemical and biological properties of the environment, caused by any form of matter or energy resulting from human activities that, directly or indirectly, affect the health, safety and well-being of the population. , social and economic activities, biota, aesthetic and sanitary conditions of the environment, and the quality of environmental resources.

The development that seeks to satisfy the needs of the current generation, without compromising the ability of future generations to meet their own needs, means enabling people, now and in the future, to reach a satisfactory level of social and economic development and human and social achievement. while making reasonable use of land resources and preserving species and natural habitats.

International cooperation for the preservation of the environment determines that safeguarded: national sovereignty, public order and good customs, the Brazilian government will provide, with regard to the environment, the necessary cooperation with another country, and must also maintain a system of communication capable of facilitating the rapid exchange of information with organs from other countries (articles 77 and 78 of Law 9,605 / 98); (BRITO, 2003).

Environmental sustainability is attributed to maintaining the functions and components of the ecosystem in a sustainable way, and can also be designated as the ability of the natural environment to maintain living conditions for people and other living beings, taking into account habitability, the beauty of the environment and its role as a source of renewable energy.

Ensuring environmental sustainability - the seventh Millennium Development Goal - requires achieving sustainable development standards and preserving the productive capacity of natural ecosystems for future generations. Both efforts require several policies to reverse

Sustainability and Environmental Responsibility in Companies

environmental damage and better ecosystem management. The challenge has two dimensions: addressing the scarcity of natural resources for the world's poor and reversing the environmental damage resulting from the high consumption of wealthy people (UN, 2010).

The United Nations, through the seventh point of the Millennium Development Goals, seeks to guarantee or improve environmental sustainability, through six main objectives: Integrate the principles of sustainable development into national policies and programs and reverse the loss of environmental resources; Significantly reduce biodiversity loss; Halve the proportion of the population without access to drinking water and basic sanitation; Achieve, by 2020, a significant improvement in at least one hundred million people living below the poverty line; Integrate the principles of sustainable development into national policies and programs and reverse the loss of natural resources; Significantly reduce the loss of biodiversity (BRITO, 2003).

Economic sustainability is understood as the result between the economic, social and environmental aspects of productive activities, that is, promoting economic development through productive activities without depleting natural resources and with social justice, applying to all sectors of the economy and should guide all government and private actions.

In the proposed analytical scheme, the problem of the political economy of sustainability is seen as a problem of intertemporal distribution of finite natural resources, which presupposes the definition of limits for their use (scale). Furthermore, it is a process involving economic agents whose behavior is complex in their motivations (which include social, cultural, moral and ideological dimensions) and which act in a context of uncertainties and risks of irreversible losses that the progress of science there is no way to eliminate it (GUIMARAES, 1998).

There are 3 main aspects of Environmental Civil Liability:

Non-contractual liability: stems from the general duty to indemnify. Regardless of any link with those affected, the polluter is obliged to indemnify the damages caused to the environment itself and to third parties affected by the harmful conduct.

Objective Liability: independent of the agent's fault analysis. In order to claim for the repair of the environmental damage, the plaintiff must demonstrate the defendant's action or inaction, the harmful event and the causal link, so that the absence of guilt or, even, the lawfulness of the activity do not prevent the repair .

Sustainability and Environmental Responsibility in Companies

The defense of the polluter, claiming that he carries out lawful activity duly authorized by the competent body, does not exempt him from repairing the damage, if this occurred due to his activity. The defense of the polluter, claiming that he carries out a lawful activity duly authorized by the competent body, does not exempt from repairing the damage, if this occurred due to his activity.

Article 14, § 1 of Law 6.938 / 81, provides that: “Without prejudice to the application of the penalties provided for in this article, the polluter is obliged, regardless of the existence of fault, to indemnify or repair the damage caused to the environment and third parties , affected by their activity. The Public Prosecutor's Office of the Union and the States will have the legitimacy to bring civil and criminal liability actions for damages caused to the environment ”.

It has been understood that the accepted responsibility is the objective one, under the modality of integral risk, for which the existence of the act of God or force majeure as excluding is irrelevant. In this way, if the damage occurred, whether due to a technical or human failure, or due to chance, or even due to the force of nature, the entrepreneur must respond and, if possible, turn against the true cause, for the right of return, when it's a third party.

However, it is understood that we can consider as exonerators of this responsibility facts of exceptional gravity, such as a natural cataclysm and others. Law 6.453 / 77, when dealing with civil liability for nuclear damage and criminal liability for acts related to nuclear activities, established, in Brazil, objective civil liability by determining, in article 4, that “it will be exclusive to the operator of the nuclear installation , under this law, regardless of fault, civil liability for the repair of nuclear damage caused by a nuclear accident ”.

Joint and several liability: any entrepreneur may be required to be repaired if there is more than one person responsible. As for solidarity, we check if there is more than one entrepreneur, reparation can be demanded from everyone or anyone, according to the rules of solidarity, and the person responsible for paying for the damage is responsible for the return action against the other co-responsible people, there, yes, through subjective responsibility, in which they can discuss the responsibility of each one.

Interesting is the position of the jurisprudence that believes that it is possible to bring a public civil action against the directly responsible person, against the indirect person or against both, being joint and several liability. Including the State as jointly and severally

Sustainability and Environmental Responsibility in Companies

liable for damages caused by third parties, since it is its duty to inspect and prevent damages from happening, is something more complex. There is positioning understanding that it is not possible, because we would be punishing the very victim of pollution, the people.

The legal entity's penalty is subject to two facts:

The) that the infraction is committed by decision of its legal or contractual representative or of its collegiate body.

B) that has been committed in the interest or benefit of your entity.

Article 4 of Law 9,605 / 98 provides that the personality of the legal entity can be considered whenever this is an obstacle to the compensation of damages caused to the quality of the environment. It is the thesis of disregarding the legal personality also called the disregard of legal entity, by which when investigating environmental crime, one can directly turn against the administrators.

The penalties applicable alone, cumulatively or alternately to legal entities, according to the provisions of article 3, are: fine; restrictive rights; provision of services to the community (art. 21 of Law 9,605 / 98).

The penalties restricting the rights of the legal entity are: partial or total suspension of activities; temporary ban on establishment, work or activity; prohibition of contracting with the government, as well as obtaining subsidies, subsidies or donations (BRASIL, 1998).

The provision of services to the community by the legal entity will consist of: funding of environmental programs and projects; execution of restoration works in degraded areas; maintenance of public spaces; contributions to public environmental or cultural entities (art. 23 of Law 9,605 / 98).

Passive subject. It is the holder of the injured or threatened legal asset. The collectivity as the direct passive subject and a private individual, possibly injured, the indirect subject.

Imposition and gradation of the penalty. The competent authority must investigate the consequences and the extent of the damage, choose the best penalty among those applicable, observing the gravity of the fact, the background of the infringer in relation to compliance with environmental legislation, the reasons for the infraction and its

Sustainability and Environmental Responsibility in Companies

consequences, as well as the offender's economic situation. (Art. 6 of Law 9.606 / 98.) Finally, the mitigating and aggravating factors provided for in the law will be considered.

The aggravating factors are found in article 15 of Law 9.605 / 98 and should be applied when they do not constitute or qualify the crime. They basically involve recidivism in crime of an environmental nature or peculiarities in the practice of the offense, such as having the offender commit the offense to obtain a pecuniary advantage, seriously affecting or exposing danger to public health or the environment, through abuse of the right license, permission or environmental authorization, among other cases expressed in the law (ANTUNES, 2000).

Article 16 of Law 9,605 / 98 provides: "In the crimes provided for in this law, the conditional suspension of the sentence may be applied in cases of sentencing to a prison sentence of not more than three years".

Exclusions of illegality. Article 79 of Law 9,605 / 98 provides for the subsidiary application of the Penal Code. Thus, Article 23 of the CP applies in the alternative, providing for the possibility of those excluded from the state of need, legitimate defense or the spirit of compliance with legal duty or regular exercise of a right. The typical fact loses its illicit character due to the exclusion of anti-legality.

The excluders of guilt. Also the exclusion of guilt, provided for by the Penal Code, can be applied to environmental crimes. For example: the allegation of the prohibition error (art. 21, caput of the Penal Code).

Competence to judge crimes against the environment. The rules of jurisdiction provided for by the Code of Criminal Procedure apply - with subsidiary application (Article 79 of Law 9.605 / 98).

The Federal Court will have jurisdiction under the hypothesis of art. 109, IV of the Federal Constitution of 1988. it has been understood that, if it is the case of an environmental crime framed in the provisions of items V and IX - of the aforementioned device - the jurisdiction will also be the responsibility of the Federal Justice. For the other cases, the general rule of jurisdiction of the State Justice is valid (ANTUNES, 2000).

Precedent 91 of the STJ states that the jurisdiction "[...] to the Federal Justice to prosecute and judge crimes committed against fauna" has been canceled.

Sustainability and Environmental Responsibility in Companies

Initially, it was Law 6.938 / 81 that gave legitimacy to the Public Ministry to act by proposing civil and criminal liability action, for damages caused to the environment.

The Public Ministry of the Union and the states will have the legitimacy to bring civil and criminal liability actions, for damages caused to the environment ". Subsequently, the Public Civil Action Law, Law 7,347 / 85, reinforced and expanded environmental protection and the role of the Public Ministry.

The Federal Constitution of 1988 welcomed the two previous laws, conferred on the Public Ministry the defense of other diffuse and collective interests (art. 129, III) dedicated an entire chapter to the environment, expanding, giving any citizen legitimacy to propose popular action that aim to annul an act harmful to the environment, among other hypotheses (art. 5, LXXIII).

The Consumer Protection Code, Law 8.078 / 90, defined individual target interests and established a joint expansion, in procedural matters, with the Public Civil Action Law.

Finally, in 1998, Law 9,605 / 98, known as the Environmental Crimes Law, completed the cycle of integral protection of the environment in the administrative, civil and criminal spheres.

5. FINAL CONSIDERATIONS

Humanity lives in a period of transition, therefore, there is no such thing as what is known as a historical unity between generations. It turns out that the new generations have a very different worldview than the one that prevailed a few years ago.

Currently, there is no longer any fear of imminent nuclear war, but a large part of humanity is aware that mass destruction can occur in minutes, due to the imprudence of man himself. If that happens, the species will become extinct. And it is this awareness that differentiates men from other animals. Human beings, unlike other species, can cause their own disappearance.

Within this planning, actions can be preventive, remedial or proactive, depending on the stage in which they are applied. Certainly, management would not be experiencing this

Sustainability and Environmental Responsibility in Companies

wide diffusion and acceptance were it not for the advantages that its implementation brings, which are divided between strategic and economic.

The economic benefits of applying an environmental management plan include the reduction in spending on water, energy and inputs, as well as the reduction of effluents and the consequent extinction of fines for damage to the ecosystem and expenses with environmental liabilities, recycling as a way income from the sale of recycled products and the use of residues, the conquest of new markets and the possibility of expanding the profit margin by selling "green products".

REFERENCES

ANTUNES, Paulo de Bessa. Public Civil Action Environment and Indigenous Lands. Rio de Janeiro: Lumen Juris, 1998.

BRAGA, Thiago Silva. Environmental responsibility: the mechanisms of law to repair damage and preserve the environment. Monograph (Bachelor of Law). Rio Grande do Sul: Pontifical Catholic University of Rio Grande do Sul, 2014.

CARRAZA, Roque Antonio. Constitutional tax law course. São Paulo: Malheiros, 1998.

DERANI, Cristiane. Economic environmental law. São Paulo: Max Limonad, 2007.

GOMES, Duarte. Organizational culture, communication and identity. Coimbra: Quarteto, 2000.

LIMA, D .; POZZOBON J. Socio-environmental Amazon. Ecological sustainability and social diversity. Advanced Studies, São Paulo, 19 (54): jan.-feb., 2005.

MASCARENHAS, Maria Paula Vilhena; COSTA, Cristiana dos A. Fernandes. Corporate Social and Environmental Responsibility. A sociological perspective. Latitude, 7 (2); Jun. 2011.

MCGRATH, David. In: XIMENES, Tereza (Org.). Perspectives of Sustainable Development: a contribution to the Amazon 21. Belém: UFPa, 1997.

MEIRELLES, Hely Lopes. Brazilian administrative law. 18th ed. São Paulo: Malheiros, 2013.

MILARÉ, Édís. Environmental law. 4th ed. São Paulo: Revista dos Tribunais, 2005.

Sustainability and Environmental Responsibility in Companies

REGO, Armenian. Citizenship behaviors in organizations. Portugal: McGrawHill, 2002.

SILVA, José Afonso da. Constitutional environmental law. 4th ed. São Paulo: Malheiros, 2003.

SIRVINSKAS, Luís Paulo. Environmental Law Manual. 2nd ed. São Paulo: Saraiva, 2003.

SROUR, Robert Henry. Power, culture and ethics in organizations. São Paulo: Campus, 1998.

TAVOLARO, Sergio BF Environment and society. Year II, n. 5, 1999.

TOLOMEI, Lucas Britto. Constitutional protection of the environmental legal good. Direito.net, São Paulo, June 24, 2005. Available at: <<http://www.direitonet.com.br/artigos/exibir/2092/A-Constituicao-Federal-eo-meio-ambiente>>. Accessed February 15, 2016.

WERTHER, JW; CHANDLER, D. Strategic corporate social responsibility. NewYork: Sage Publications, 2006.