

FOR A COMMON DEFINITION OF MEXICO- -BRAZIL SUSTAINABLE DEVELOPMENT: A CASE STUDY FROM THEIR NATIONAL COURTS¹

Tania García López²

Universidad Veracruzana de México (UV)

Jamile Bergamaschine Mata Diz³

Universidade Federal de Minas Gerais (UFMG)

Romeu Faria Thomé da Silva⁴

Escola Superior Dom Helder Câmara (ESDHC)

ABSTRACT

The definition of the principle of sustainable development, although already well addressed by the doctrine, still deserves attention, given its wide scope, content and recipients. Therefore, this work aims to establish the conceptual framework, albeit preliminarily, on such aspects of the principle to then verify its application through a case study, in the higher courts of Mexico (Constitutional Court) and Brazil (Supreme Federal Court); however, the intention is not to compare both systems but to verify the applicability of the principle of sustainable development. In order to achieve the proper principle-based treatment by the aforementioned States, this case study used the deductive method and bibliographic research technique. Finally, it is concluded that there is judicial effectiveness in achieving the aspects of the principle, although mitigation can be verified in the face of certain hypotheses, as it will be analyzed.

1 Author Jamile Bergamaschine Mata Diz thanks Fapemig for the financial support for this research under PPM/Edital X, and to CAPES under CAPES/PrInt Publication 2018, PVS modality.

2 Doctoral degree in Environmental Law from Universidad de Alcalá de Henares (UAH). Researcher at Universidad Veracruzana (UV). National Researcher Level II, CONACYT, Mexico. ORCID: <https://orcid.org/0000-0002-9540-3691> / e-mail: tgarr70@gmail.com

3 Doctoral degree in Public Law/Community Law from UAH. Master degree in Law from UAH. Coordinator at UFMG Centro de Excelência Jean Monnet de Direito Professor at UFMG Faculty of Law Professor at Faculdade de Direito Milton Campos (FDMC/MG). Coordinator and Professor of the Graduate Program in Law at Universidade de Itaúna (UIT). Coordinator of the Research Network "Integration, State and Governance." ORCID: <https://orcid.org/0000-0001-8709-0616> / e-mail: jmatadiz@yahoo.com.br

4 Post-Doctoral degree in Environmental Law from Université Laval (ULaval). Doctoral degree in Law from UFMG. Master degree in Law from UFMG. Specialization in Environmental Law at Université de Genève (UNIGE). Environmental Law Professor at ESDHC. ORCID: <https://orcid.org/0000-0003-0180-4871> / e-mail: romeuprof@hotmail.com

Keywords: Brazil; sustainable development; judicial interpretation; Mexico; national courts

POR UMA DEFINIÇÃO COMUM DE DESENVOLVIMENTO SUSTENTÁVEL MÉXICO-BRASIL: ESTUDO DE CASO A PARTIR DOS RESPECTIVOS TRIBUNAIS NACIONAIS⁵

RESUMO

A definição do princípio do desenvolvimento sustentável, ainda que já bem tratada pela doutrina, merece ainda ser objeto de atenção, dado seu amplo alcance, conteúdo e destinatários. Desta forma, o presente trabalho tem por objetivo estabelecer o marco conceitual, ainda que de forma preliminar, sobre tais aspectos do princípio para a partir daí verificar sua aplicação, por meio de estudo de caso, nos tribunais superiores do México (Corte Constitucional) e no Brasil (Supremo Tribunal Federal), sem que haja, contudo, ânimo de comparar ambos os sistemas, mas sim verificar a aplicabilidade do princípio do desenvolvimento sustentável. Utilizou-se o método dedutivo, com técnica de pesquisa bibliográfica e estudo de caso, de forma a alcançar o devido tratamento principiológico pelos Estados citados. Finalmente, conclui-se que há efetividade judicial na consecução dos aspectos do princípio, ainda que se possa verificar mitigação diante de determinadas hipóteses, conforme será analisado.

Palavras-chave: Brasil; desenvolvimento sustentável; interpretação judicial; México; tribunais nacionais.

⁵ Author Jamile Bergamaschine Mata Diz thanks Fapemig for the financial support for this research under PPM/Edital X, and to CAPES under CAPES/PrInt Publication 2018, PVS modality.

INTRODUCTION

The concept of sustainable development was gradually constructed through its insertion in national and international instruments that sought to align economic growth with social development, without forgetting the protection to the environment, traditional pillars of this principle, into which new elements were later incorporated.

The 1972 Stockholm Conference, considered a milestone, with the participation of several States, gave rise to an instrument of international law (Declaration on Human Environment or the Stockholm Declaration) to coordinate efforts aimed at protecting the environment. This instrument already includes the concern of the International Community to combine environmental protection with economic development. From 1972 to 1992, the year of other important environmental conference, as it will be seen later, several specific treaties and instruments emerged, such as the Brundtland Commission Report (1987), which formally proposed the concept of sustainable development, defined as: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

In 1992, the United Nations Conference on Environment and Development (UNCED) took place in Rio de Janeiro and produced important documents on the protection to the environment, such as the Agenda 21, Rio Declaration on Environment and Development, United Nations Framework Convention on Climate Change, and Convention on Biological Diversity. According as the recent history of environmental rights has evolved, a wide range of principles has been developed, taking into account two basic premises: (i) pollution generated by one country can affect others (transboundary pollution); (ii) a state cannot solve global environmental problems alone; assumptions based on the concept of sustainable development and its correlative evolution.

Since 1972, it has been observed that the instruments used in international environmental law and in national and regional legal systems tend to be similar, largely due to their relative novelty, which inserts them into a unique paradigm: achieving a greater degree of environmental protection. Now, the main basis of environmental law, in its different aspects (international, regional, and national), is still in full development and evolution and has been built taking into account the two basic premises mentioned above.

The objective of this article will be to analyze the conception, evolution and application of sustainable development, based on the traditional three-dimensionality (its pillars), also adding the new premises established in the Sustainable Development Goals (SDGs) and the 2030 Agenda, seeking to establish its correspondence with the systems of Mexico and Brazil from the study of paradigmatic cases, without necessarily having a restrictive comparative perspective, but a view of the application by the superior national courts of both countries.

The work methodology focuses on the main aspects established for an interdisciplinary investigation involving issues of environmental law and their treatment by Law of Europa, Mexico and Brazil mainly due to the specific and singular nature that has to be present in each analysis of a system, whose focus is to achieve economic growth with adequate environmental protection. In this sense, methods will be used to analyze the evolution and application of the SDGs in two legal systems with converging normative basis, albeit with their unique points.

The historical methods, with a deductive and comparative approach, will enable the definition of the conceptual and practical premises linked to sustainable development and their consequent interpretation in the scope of the process of their incorporation and application by the superior courts of Mexico and Brazil, as well as establishing to what extent they impacted the formation of the national environmental system, also taking into account their respective particularities.

1 FOR A COMMON CONCEPT OF SUSTAINABLE DEVELOPMENT: SCOPE, CONTENT AND RECIPIENT

In the post-war world context, capitalism experienced one of its best moments of development. The period from 1945 to 1975 was marked by great economic growth and the expansion of industrialization, largely due to European reconstruction and the rise of Japan.

But this was also the moment when the world began to realize the harmful effects of the capitalist mode of production.

In this context, the United Nations Conference on the Human Environment, held in Stockholm in 1972, was a milestone in the development of international environmental law. It was essential to build consensus between the opposing positions: those who advocated the complete stagnation of economic growth, foreseeing a catastrophic future for humanity

due to environmental degradation, and those who advocated growth at all costs, claiming that the issue of environmental protection attended the developed countries' interest, which wanted to go against the peripheral countries' industrialization.

The principle of sustainable development is based on two complementary types of solidarity, well explained in the words of Sachs (2009, p. 28): "synchronous solidarity with current generations and diachronic solidarity with future generations." For Silva (2009, p. 105), therefore, the "principle of sustainable development leads States to adopt a holistic view of the interdependence of the biosphere, the relationship between human beings and their environment, that is, to integrate environmental and development policies." Viana (1998, p. 920) highlights the need for this integration

And the only viable solution, both in this field and in any other, is consideration, that is, the application of international laws and principles that govern environmental protection policy in a coherent manner, taking into account the peculiar activities existing in each region, in a way that it does not harm an entire sector of the community, effectively preserving the ideal of balanced sustainable development.

It is necessary to emphasize the extremely general and abstract nature of the principle. It does not provide practical applicability solutions, but it is a value to be followed as an ideal in the formulation of public policies and in the development of national and international legislation and jurisprudence.

Sustainable development is reaffirmed at the United Nations Conference on Environment and Development, when the final Declaration begins, stating: "The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations." Also by Agenda 21, an extensive document originating from the Rio de Janeiro Earth Summit, which serves as a planning tool for building sustainable societies and is guided by the pillars of environmental protection, social development and economic efficiency, fully supporting the idea of sustainable development (MATA DIZ; SOARES DE ALMEIDA, 2014).

In this context, it is already possible to imagine the genesis of *jus cogens* norms in the sense that, before the duty of States to protect the environment, they should mitigate permanent sovereignty over their own resources to impose their international responsibility for omission and commissioned actions that imply in violation of such duty, in its territory or in another State, according to the contemporary geopolitical context. Considering the environment as a human right reaffirms a protective conception

linked to its nature as fundamental for human survival itself, configuring the healthy environment as an extension of the right to life, and therefore, considered convincing (CALDAS; MATA DIZ, 2016).

Thus, Cançado Trindade (1993, p. 76) understands

The right to a healthy environment protects human life in two aspects, namely, the physical existence and health of human beings, and the dignity of that existence, the quality of life that makes life worth living. The right to the environment encompasses and extends the right to health and the right to an adequate or sufficient standard of living [...].

This idea stems from the clear expansion of the expectations of various actors on the international scenario, as well as from the exploitation of certain social sectors to overcome the values or just the economic aspects of human life, other needs and forms of organization, such as: what is the problem of environmental protection itself (and sustainable development), overcoming traditional perceptions of merely spatial legality, leading to the emergence of independent regulatory regimes that are distant from the sense of the State from the perspective of sovereignty trapped in the unique bias of its territoriality? (CALDAS; MATA DIZ, 2016).

It is possible to note that, as a result of international principles (especially that of sustainable development), the devices used in International Environmental Law and in national and regional legal systems tend to be similar, depending on their relative novelty, which inserts it into a single paradigm – to achieve a higher degree of environmental protection. However, the basic set of principles of environmental law, in its different aspects (international, regional, and national), continues to evolve and has been built taking into account the basic premise that environmental protection should not be analyzed without neglecting other areas such as economic growth and social development.

The concept of sustainable development, as it is possible to see, varies from a concept limited to the relationship between economic growth and the environment, such as the United Nations Millennium Declaration, to that already mentioned in the Johannesburg Declaration on Health and Sustainable Development, which seems to extend to all areas of international interest.

As Fitzmaurice (2002, p. 47) observes, “[...] the concept of sustainable development has become a buzzword of the present era. It is the most used (or perhaps even over-used) term which exists in the field of environmental protection.”

At the United Nations Conference on Sustainable Development, held

in Rio de Janeiro, Brazil, in 2012, known as “Rio + 20,” the final declaration entitled “The future we want” was adopted, which begins by reaffirming its number one argument, the signatory countries’ commitment to sustainable development. It expresses

[...] with the full participation of civil society, renew our commitment to sustainable development and to ensuring the promotion of an economically, socially and environmentally sustainable future for our planet and for present and future generations” (ONU, 2012).

Point 4, in turn, emphasizes the interaction between sustainable development and other factors:

We recognize that poverty eradication, changing unsustainable and promoting sustainable patterns of consumption and production and protecting and managing the natural resource base of economic and social development are the overarching objectives of and essential requirements for sustainable development (ONU, 2012).

The OECD also insisted on the need for achieving sustainable development based on the allocation of policies that aim to reach its materialization once

There is a window of opportunity now to introduce ambitious policy changes to tackle the key environmental problems and promote sustainable development. Investment choices being made today need to be steered towards a better environmental future, particularly those that will “lock-in” energy modes, transport infrastructure and building stocks for decades to come (OECD, 2008).

The most widespread meaning of the principle of sustainable development, however, is expressed by the International Court of Justice in the *Gabcikovo-Nagymaros* case, in which it recognized this concept as need to reconcile economic development with the protection to the environment. Sri Lankan Judge Weeramantry added that this was a “valid legal *erga omnes*” principle (LÓPEZ BASSOLS, 2004, p. 88).

Still, there are those who make a distinction between “sustainability” and “sustainable development,” pointing out that:

[...] the fundamental difference between sustainability as a general principle of law, and sustainable development as a model of development, as formulated by the Brundtland Commission and taken up in the Rio Declaration, lies in the fact that, while the former focuses on capacity burden of environmental, economic and social systems, with respect to impacts and the various processes that arise due to human activities, the latter is part of the right to development as a final aspiration of contemporary societies (sic) (MORENO PLATA, 2008 , p. 319).

The understanding of sustainable development, as verified in this work, begins with the adoption of the three pillars (triple bottom line) (ELKINGTON, 2004) – economic growth, social development, and environmental protection – with new premises subsequently established by the SDGs (Sustainable Development Goals, UN, 2012), an international instrument that serves as a tool for the action of both States and private actors.

On the other hand, once a preliminary definition of the principle has been established, it is up to us to establish its scope, content and recipient. This is a very significant challenge because, when it comes to the necessary balance between the pillars (traditional and what was established in the SDGs today) (peace and prosperity, also known as 5Ps – planet, people, partnership, peace and prosperity), defining the premises for scope and content result in a really complex task; however, one will seek to place, to a greater or lesser extent, the guidelines for such aspects, namely:

- Scope: in relation to the scope of the principle, it is necessary to determine to what extent its application is inserted in the pillars described above and also how to determine a general framework broad enough to be introduced in all dimensions that should contemplate the mentioned principle, that is, it is assumed that, although its scope can be broad and, at times quite diffuse, the premises have to be adopted for its effective materialization. In this sense, much has been written about the integration between the three pillars and, indeed, it is already regulated in some legal systems, such as the European Union and the provision contained in article 11 of the Lisbon Treaty. However, there is a wide and indefinite margin for the interpretation of what could be considered the scope of the principle, evaluated by the jurisprudence of national and international courts.

Undoubtedly, the transversality or integration of the environmental variable much contributed so that its scope has been determined, little by little. In this sense, Rodrigo (2015, p. 12) states:

[...] The principle of international law that can contribute most directly to the objective of sustainable development and that best summarizes its essence is the principle of the integration of its economic, social and environmental aspects. This principle has variable and contextual content and can be highly effective to operate in countries with different levels of development without imposing homogeneous content, in addition to helping regulate relations between international regimes.

In the horizontal dimension of the principle of integration, transversality is responsible for introducing environmental sustainability in the planning and implementation of public or private actions, also coinciding with the corporate governance discussed here. Thus, “the principle of integration and planning underlays the idea of economic, environmental and social integration. Political integration involves the creation of new structures, the reform of existing institutions and the transformation of current political processes” (OLIVEIRA CLARO; CLARO; AMANCIO, 2008, p. 209).

According to the doctrine (MACHADO, 2007), the transversality of an environmental regulation is due to the horizontal nature and the power of interaction with other sectoral policies, and aims to guide the regulation in the environmental sense. Even so, the environment can be considered a transversal and multidisciplinary approach, as it includes biotic and abiotic, social, economic, legal and political-institutional agents in its composition (PADILHA, 2010).

The inclusion of the principle of environmental integration presupposes need to assess the impacts on the environment regarding the implementation, control and inspection of public policies; besides, it inaugurates an important stage in the implementation of these policies, adding the environmental component in the formulation of its efficiency parameters, achieving a new mode of governance, as Aguilar highlighted when establishing that “elements that compose this new governance will be, together with the principles of integration, precautionary measures, coordination, subsidiarity, participation and transparency, accountability [...]” (FERNÁNDEZ, 2003, p. 82).

The author continues to indicate:

The integration of the environmental component should occur in all phases of the decision-making process of sectoral policies: from the stage of agenda-setting to the stage of evaluation. The parallelism of this total integration would be found in economic policy, whose basic principles (such as budgetary balance, inflationary control, low interest rates, etc.) currently inform all decisions made in different areas of public management, due, among other things, to the strong tutelage exercised by the Ministries of Finance and Economy and the international consensus on the need for applying a certain economic orthodoxy. Hypothetically, something similar could happen, for example, with respect to an environmental principle as basic as saving water, if a strategy that established specific objectives to be achieved in terms determined by different instances had been applied (FERNÁNDEZ, 2003, p. 86).

The integration of environmental policies, in turn, implies an ongoing process. For the environment to be taken into account in all areas of regulatory action, it is necessary to make changes in political, organizational and procedural activities, so that environmental problems are incorporated as quickly as possible.

As an example, it is possible to mention the European Union, where the principle of integration is definitively consolidated in the environmental regulatory framework, and also considered a general principle of European environmental policy.

[...] general principle that inspires each action of the Union, as well as the horizontality which necessarily characterizes environmental policy” [...], in addition, given its current position as general principle of the Union Law – and not only as a policy and principle of Environmental Law – it need to be taken into consideration in the interpretation of any rule of community law, as it has been set forth in various decisions of the Court of Justice of the European Union [...]; it should be noted that this principle is of particular importance since has to be respected by the Member States when executing each and every one of the rules adopted in the framework of any community action or policy” (MARTÍN, 2013, p. 125-126).

In the case of the European Union, this integration is considered to be remarkable and decisive for the Community’s environmental future and, even before the Single European Act (SEA), the integration of environmental policy in the Community guidelines has already appeared implicitly in attempts at harmonization, seeking a common market. However, it was from 1987, as already analyzed, with the approval of the SEA, where environmental policy finally reveals itself as institutionalized as community policy, and where the principles and the transversal component of the environment are expressed, creating a guide that should orientate all community and national policies.

Therefore, the transversality, when becomes reality, corroborates the delimitation of the scope, making the environmental protection reach a maximum degree of application, including it in all sectoral policies and in the consequent programs, projects and actions carried out in the public and private spheres.

- Content: when talking about sustainable development, it should be considered that its content directly involves the premises and the level of protection adopted by each legal system, that is, the content intrinsically relates to the regulation and implementation of the determinant premises in order for growth, generally, not to mean the absence of a legal

protection structure. As Rodrigo (2015, p. 11) points out:

The content provides information about its material and personal application scope, its potential performance and the problems raised by its application. The study of legal status, in turn, aims to determine whether, in addition to conventional norms binding on all signatory States to the international treaties in which they are included, they have become customary norms of general international law.

At the moment, the content, as well as its definition, may be meaningless if no effort is made to apply the structure mentioned above.

In this sense, as Naredo (1996, p. 12) reveals:

[...] First, it should be noted that the underlying conceptual ambiguity cannot be resolved by simple terminological adjustments or by more complete descriptive or enumerative definitions than what should be understood by sustainability (as with the notions of production or development, which implicitly found their definition in the very idea of an economic system): at the moment of truth, the content of this concept is not the result of explicit definitions, but of the reasoning system that we apply to address it. Obviously, if, as it is happening, we do not apply any system in which the term sustainability makes its meaning clear, it will continue to remain at the levels of nebulous generality in which it operates today.

Similarly, in order to establish the general protection framework, it should reflect on attempts, often unsuccessful, to channel regulation that can really generate practical results when it comes to decision-making by especially public agents on the formulation of public policies. Now, it is known that the absence of main application, in almost all systems, with regard to the necessary articulation of the abovementioned pillars.

There is no denying the legal value of the principle; what exists is the investigation of scarce results when questioning or when the economic situation worsens. This is what can compromise the level of effectiveness of the regulation (more or less restrictive) of each State or of each integration and/or international system.

Similarly, its content alone fails to achieve the degree of protection that the environment should deserve, without a basis or “incentive” for rules that can define the parameters of applicability. In this sense, given the range of its scope, as already mentioned, and the character of the meta-principle (usually determined by overlapping the entire system), it is necessary to create a legal order whose composition is directly aligned with the degree of protection to be achieved. In the same way, Díaz Barrodo (2016, p. 7) highlights

[...] sustainable development is a “cumulative notion” that has been enriched with

political, social and regulatory components over time. This accumulation contributes to many elements of uncertainty and understanding of the notion itself and prevents it from having clear characteristics. Second, sustainable development is a “dependent notion” that requires the existence of certain principles of international order for it to produce certain legal effects. Sustainable development lacks autonomy in many areas and is only effective due to the simultaneous presence of principles that regulate the different issues with which it deals.

The absence of autonomy, as some authors understand, and which was pointed out above, cannot mean, however, that the principle intrinsically lacks content, but that it only, in addition to specific, sectoral and multidisciplinary regulations, will not result in the creation of an authentic system focused on environmental protection.

Correspondingly, it should be mentioned that the inclusion of sustainable development has not only affected the international and regional system, but also the national system, inserting in the constitutions and/or equivalent commandments (that is, of a constitutional nature) the sense of development, although implicitly.

[...] the notion of development is a value that has consequences of a political nature for the international scene and certainly constitutes one of the main purposes of the international community as a whole. In addition to the enormous work carried out by the United Nations and its main role, the concept of development transcends these limits and has entered the usual space in which the “constitutional principles” of the international order live, although its meaning is not yet clear in this field and, above all, the scope and content provided for these purposes (DÍAZ BARRADO, 2016, p. 20).

Finally, determining the precepts that should define the content, currently, also involves the adoption of mechanisms, instruments and studies on prospection and environmental assessment, in addition to the devices related to studies and environmental impact assessments and categorizing the development per elements of more effective nature, materializing its legal value as underlying the notion of sustainability.

- Recipient: determining the recipient of the principle also results in a milestone, since the scope mentioned goes beyond the field of specifying the object on which the effects of sustainable development should manifest (COSTA ; MATA DIZ, 2015).

In this sense, the doctrine was charged with developing various theses on the nature of the environment, seeking to categorize it as a legal asset also for the purposes of establishing its recipient (s). Interpretations, in most cases, are not far from the fact that the environmental asset has a diffuse

legal nature.⁶ Opinions, however, differ as to the legal nature of that asset.

In summary, some interpretations can be cited, such as that of Leme Machado, who does not discuss the legal nature of the environmental asset, but only understands that the Public Power cannot be considered its owner; on the contrary, it observes that the public power has only the obligation to manage it (MACHADO, 2014, p. 152). Derani (2008), in turn, considers the healthy environment to be a true collective asset, essential for human and community development.

Based on Law 6.938 of 1981, art. 2, subsection I, Milaré (2004), in the first editions of his book, understands that the environment is a public asset, with which the Public Power is simply the manager of environmental goods in order to materialize its public legal nature, although this author has modified his understanding and then defended the theory of the diffuse good (MILARÉ, 2014).

In this same line and protected by the Italian theory of environmental goods, Fiorillo (2011) points out, under solid arguments, the legal nature of these goods. He claims that Italian doctrine, even in the 1970s, recognized collective and diffuse rights as a result of the transformation of society and the development of a complex capitalist economy, which led to a large number of people ending up without guarantee of the right of access to justice.

There is no doubt that the recipients of the principle are people, but also the environment, both in its natural and artificial aspects, with which we find ourselves in a context that overlaps the legal nature of the environment, as mentioned earlier, with the identification of its recipients. In other words, if the environment is considered the common good of all or, even a common heritage of humanity, it is everyone's duty to safeguard its protection, while the international, regional and national systems have to establish the necessary regulations to carry out this assignment.

From the observation regarding the intrinsic nature-recipient

6 Mancuso describes the basic characteristics of diffuse rights or interests. They are the following: indeterminacy of the subjects, indivisibility of the object, intense conflict and ephemeral duration. Several rights are framed within this perspective, such as consumer and preservation of the environment. It is possible to clearly see the indeterminacy of the subjects when, for example, contamination of running water occurs with toxic products derived from the chemical industry. Also the indivisibility of the object and the intense conflict, since, in this case, the responsibilities must be verified both for human health and for the impact on the environment. This becomes a difficult conflict to resolve when the number of polluters and the number of victims vary. As for the last item, that is, the ephemeral duration is debatable, as the environment can take a long period of time to recover. In most cases, it does not return to the *status quo ante*. As for human health, there can also be irreversible damage. Therefore, the example shows the complexity of environmental protection and its interface with diffuse rights (Mancuso, 1997, p. 74).

relationship, it is clear that court orders need to guarantee the measures implemented in the regulatory instruments so that beneficiaries can effectively have access to sustainable development. To make this statement even more concrete, it is a matter of designing the procedural mechanisms that make the principle applicable, whether they are individual, collective or diffuse recipients.

Furthermore, given the mandatory coexistence between regulation and applicability and, following Cappelletti (1977), due to the concern about the complexity of the formation of contemporary society and the insufficiency of jurisdictional protection to new formed groups, that is, protection to collective and diffuse rights, there was propagation of new forms of guarantees that should emerge to overcome the gap (lack) (Rosenthal) that was formed in the Law in several national systems and even in the international one.

Therefore, there is a radical transformation that should occur in the civil process and, inevitably, its influence on a plurality of other disciplines, due to the submission of society to economic relations. From this observation, collective and diffuse rights are born to defend those who previously did not achieve adequate protection to their rights, although many of them were fundamentally recognized by internal systems. This subject has been already addressed (COSTA; MATA DIZ, 2015), and since it is not the central object of this work, we refer to these articles without delving into the issue of environmental procedurality.

2 SUSTAINABLE DEVELOPMENT IN MEXICO

The Political Constitution of the United Mexican States, in addition to recognizing, after the 1999 reform, everyone's right to enjoy an adequate environment for their development and well-being, states in its article 25: "The State is responsible for guaranteeing an integral and sustainable national development" (MEXICO, 1917).

Subsequently, paragraph 6 of the same article adds:

Social and private sector enterprises shall be supported and fostered under criteria of social equity, productivity and sustainability, subject to the public interest and to the use of the productive resources for the general good, preserving them and the environment ^(MEXICO, 1917).

Thus, the principle of sustainable development is part of the Constitution

in Mexico to ensure, at least in theory, that this is the development model to be pursued in the country.

In addition, since the 2012 constitutional reform, the principle of the right to water has been included in paragraph 6 of article 4 of the Constitution, which establishes that:

Everyone has the right to access, disposition and sanitation of enough, healthy, acceptable and affordable water for personal and domestic consumption. The State shall guarantee this right and the law shall define bases, support and modalities of access and equitable and sustainable use of water resources, establishing the participation of the Federation, federal entities and municipalities, as well as the participation of citizens to achieve said ends (emphasis added) (MEXICO, 1917).

Article 1 of the General Law of Ecological Balance and Protection of the Environment (LGEEPA) establishes that its objective is “to promote sustainable development” (MEXICO, 1988) and paragraph 5 of this same article insists on this, stressing that LGEEPA have to establish the bases to: “Exploit in a sustainable manner, preserve and, when applicable, restore soil, water and other natural resources in order to make that economic profit and the activities of society be consistent with the preservation of ecosystems” (MEXICO, 1988).

Sectoral legislation also broadly includes this principle. Some of these legal rules even include the adjective “sustainable” in its names, as it is the case of the General Law on Sustainable Forest Development (MEXICO, 2003), the General Law on Sustainable Fisheries and Aquaculture (MEXICO, 2007a), and the Law for Sustainable Rural Development (MEXICO, 2001a). This principle has been widely recognized in the National Development Plan (PND) 2001-2006, and, based on it, in the National Program of the Environment and Natural Resources (MEXICO, 2002) for the same period.

The PND 2001-2006 (MEXICO, 2001b) established that sustainability was one of two six fundamental principles, besides national objectives for a sustainability that “protects the present and guarantee the future.”

The National Program of the Environment and Natural Resources (MEXICO, 2002) for the same period acknowledged that the protection to nature had been one of the main areas excluded from the process of formation of the country, in addition to the fact that the natural resources had not been adequately valued, and the processes of industrial development, urbanization and provision of services did not take care of the natural resources with responsibility, placing the economic interest before sustainable development.

The program referred to social and human development in harmony with nature as a synonym of sustainable development and highlighted that it was the only solution to avoid compromising the new generations' future.

The strategy proposed by the program to achieve this development was based on: (i) integrating the environmental variable in decision making; (ii) harmonizing the growth and territorial distribution of the population and promoting balance in the country's regions; (iii) establishing scientific and technological research; (iv) promoting sustainable production and consumption processes; (v) conserving biological diversity; (vi) increasing reforestation.

To achieve the objectives proposed, it was stated that environmental policy has to be based on six main pillars:

1. Integrality;
2. All economic sectors' commitment;
3. New environmental management;
4. Natural resources valuation;
5. Adherence to legality and combat against environmental impunity;
6. Social participation and responsibility.

With regard to integrality, this implies, according to the PND 2001-2006:

- a) Integral basin management: use of the hydrological basin for planning and management of all natural resources is proposed (for example, atmospheric basins, soil, biological diversity resources, natural habitat...).
- b) Existence of links between the provisions of the National Program of the Environment and Natural Resources and institutional environmental programs, such as CNA, PROFEPA, CONANP and INE. They need to be linked and complementary in terms of vision, strategy and operation.

The next PND addressed, in contrast to the previous one, Human Sustainable Development. The preamble noted that

This Plan is based on the basic premise of search for Human Sustainable Development; that is, the permanent process of expanding capacities and freedoms that allows all Mexicans to have a dignified life without compromising the heritage of future generations (MEXICO, 2007b).

The objective established was "To promote human sustainable development as a mechanism for the transformation of Mexico in the long term and [...] as an instrument for Mexicans to improve their living conditions."

This PND was based on the *Visión Mexico 2030* Project, which defined Human Sustainable Development as an opportunity to move forward with a comprehensive perspective of benefits for individuals, families and communities (MEXICO, 2007b).

Chapter 1 pointed out that human sustainable development was the basic premise for the country's integral development, and stated: "The goal of development is to create an atmosphere in which everyone can increase their capacity and opportunities can be expanded to present and future generations."

The strategy proposed was based on 5 lines of action, which will allow progress towards human sustainable development.

Economic growth results from the interaction of various elements, such as institutions, population, natural resources, endowment of physical capital, citizen capacity, competition, infrastructure, and available technology. For development to be sustainable, society should invest sufficiently in all these factors of the economic and social system.

In turn, the National Environment Program 2007-2012 established that caring for the natural heritage is a shared responsibility of humanity and, above all, a commitment to current and future society (MEXICO, 2008). The correct use of natural wealth is, in itself, a path of development, thanks to the countless productive opportunities that open up with the sustainable use of seas and coasts, biological heritage, ecotourism and many other activities compatible with environmental and social purposes.

Axis IV of the PND 2013-2018 is entitled "Prosperous Mexico" and highlights need to generate "sustainable economic growth, which is based on the comprehensive and balanced development of all Mexicans" (MEXICO, 2013a). Furthermore, it states that: "Today, society recognizes that the conservation of natural capital and its environmental goods and services is an essential element for the development of countries and the level of well-being of the population" (MEXICO, 2013a). It emphasizes that it is an important challenge "to ensure that natural resources continue to provide the environmental services on which our well-being depends" (MEXICO, 2013a).

This PND also affirms that it is necessary to "promote and guide inclusive and facilitating green growth that preserves our natural heritage, while effectively generating wealth, competitiveness and employment" (MEXICO, 2013a).

One of the objectives of this axis IV is "to promote and guide green,

inclusive and facilitating growth, which preserves our natural heritage and, at the same time, generates wealth, competitiveness and employment.” It also includes the objective of “implementing a comprehensive development policy that links environmental sustainability to costs and benefits for society” (MEXICO, 2013a).

In turn, the Environment and Natural Resources Sectorial Program for the same period states:

The country’s challenge is to establish and follow a development model that will allow achieving the sustained growth of the economy that reduces the levels of poverty and increases the well-being and quality of life of all citizens, without mortgaging the natural resource base for generations to come (MEXICO, 2013b).

The main objective of the Program is “To promote and facilitate sustainable and low-carbon sustainable growth, with equity and social inclusion” (MEXICO, 2013b).

The National Development Plan 2019-2024 includes sustainable development in the “Social Development” axis and establishes:

It proved to be an indispensable factor for well-being. It is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

This formula summarizes the inevitable ethical, social, environmental and economic mandates that have to be applied in the present to guarantee a minimally habitable and harmonious future. Ignoring this paradigm not only leads to the creation of imbalances of all kinds in the short term, but also implies a serious violation of the rights of those who have not yet been born. For this reason, the Federal Executive Power shall consider in all circumstances the impacts that its policies and programs shall have on the social fabric, on ecology, on the political and economic horizons of the country.

In addition, it shall be guided by an idea of development that shall rectify social injustices and boost economic growth without harming peaceful coexistence, ties of solidarity, cultural diversity or the environment (MEXICO, 2019).

As we can see, the principle of sustainable development is strongly recognized in rights, as well as in public policies, and has become the development model to be followed in the country.

2.1 The recognition of sustainable development by Mexican jurisprudence

Mexican courts rarely referred to sustainable development, and when they did, it was to emphasize that it is a basic principle for the full exercise

of the right to enjoy a healthy environment, enshrined in the Political Constitution of the United Mexican States, or to emphasize its relationship with other constitutional principles.

Thus, in the Thesis of the Collegiate Court of the Twenty Seventh Circuit, it was pointed out:

[...] the constitutional principle of protecting the healthy environment and the obligation to guarantee its full exercise, implies incorporating a central understanding of the concept of ecological sustainability with legal significance, in order to guarantee the use of natural resources for present and future generations, in the understanding that its vital importance lies in preventing its deterioration, as a necessary condition for the enjoyment of other fundamental rights. Consequently, the State's obligation to protect the aforementioned prerogative and ensure that its agents guarantee their respect implies a combination of fundamental objectives between economic development and resource preservation, through sustainable development, which seeks to achieve the following essential objectives: (i) efficiency in the use of resources and quantitative growth; (ii) limitation of poverty, maintenance of different social and cultural systems and social equity; and (iii) preservation of physical and biological systems – natural resources, in a broad sense – that support the life of human beings, with which various rights inherent to people are protected, such as those related to life, health, food and water, among others (MEXICO, 2018, p. 3093).

In 2012, another thesis refers to the connection and interdependence between the principle of sustainable development and other principles set forth in the Constitution

“Sustainable development” is of general interest, which determines the functional and dynamic connection with the structure of constitutional freedoms. Under these premises, fundamental rights, such as those mentioned, and those to freedom of work and legal certainty that the Constitution itself establishes, must be conceived by acting and functioning in a complementary manner, in a synergistic relationship, with balance and harmony, since the legal order is that with the claim of being hermeneutic; hence the principles of interpretation and systematic application, which aim to achieve the unity, coherence, completeness, effectiveness and intersystem coexistence of the various protected legal rights, recognizing the interpretation of human rights in accordance with the principles of universality, interdependence, indivisibility and progressiveness, set forth in article 1. of the Federal Constitution (MEXICO, 2012, p. 1807).

As can be seen, despite being a constitutional principle and being fully installed in environmental legislation and public policies, there are few references to it by jurisdictional bodies.

3 SUSTAINABLE DEVELOPMENT IN BRAZIL FROM SYSTEMIC REGULATION

Within the scope of the national legal system, the use of the principle of sustainable development was also a value to be followed, from the Constitution of the Republic, in its art. 225, which establishes: “All have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the government and the community shall have the duty to defend and preserve it for present and future generations” (MEXICO, 1917).

Despite not mentioning the term “sustainable development,” the constitutional text provides the idea of synchronous solidarity with current generations and diachronic solidarity with future generations, mentioned by Sachs (2009) and conceptualized by the Brundtland Commission.

In the specific case of Brazil, sustainable development is enshrined in article 225 of the Federal Constitution, therefore recognized as a mandatory provision. However, understanding the principle required, based on doctrine and jurisprudence, the recognition of its content and scope based on the matrix of the international environmental principle, that is, the international instruments that deal with the subject and that were previously addressed, albeit succinctly.

The concept given to the term “ecologically balanced environment” was analyzed by the doctrine to indicate a close correlation between sustainable development and the aforementioned constitutional precept. Then, for Gaio and Gaio (2016, p. 62):

It is interesting to note that the term “healthy quality of life,” inserted in article 225, head provision, of the Federal Constitution, indicates everyone’s duty to guarantee minimum conditions to live with dignity and well-being, with the possibility of achieving full development. The National Environmental Policy itself has the express objective of protecting human dignity through the preservation, improvement and recovery of environmental quality conducive to life.

As for the term “development,” the Federal Constitution recognized in its preamble the supreme value that have to be assured by the Rule of Law, in addition to declaring the guarantee of national development a fundamental objective of the Federative Republic of Brazil, establishing guidelines and foundations for planning balanced national development.

Even so, the meaning attributed to the development of the word reaches a greater degree of applicability also for being provided for in article

170 of the Federal Constitution, which covers the three pillars previously analyzed. Obviously, when establishing the Brazilian Constitution, such precepts (art. 225 and art. 170) determine a positive action by the government to give them effectiveness, both in the legislative and judicial aspects and in the executive sphere at all levels of the federation. However, the criticisms of the doctrine tend to affirm how these precepts are neglected when they collide with other values, such as those related to economic issues. Commenting on the need for giving greater systemic applicability to articles, especially in relation to the ecologically balanced environment, Leuzinger and Varella (2014, p. 303) state:

Such provisions have, in fact, contributed to changing the view of Brazilian law on the environment. Today, it is rare to find in the courts the disregard of the right to a healthy environment as a fundamental right. However, it seems, in many cases, that this fundamental right gives way to other values linked to the market. Often, it lacks effectiveness due to the lack of specific legal provisions that make constitutional value concrete. In other words, the consideration of the balanced environment as a fundamental right in several situations is not sufficient to impose environmental protection in the face of a concrete case of damage.

Obviously, the constitutional legislator determined an express value that has a mandatory compliance, rising, according to the authors mentioned above, to the category of fundamental right. In this sense, it is also possible to analyze the application of the principle by the Federal Supreme Court, especially to determine its effectiveness in terms of scope, seeking to determine the convergence with the Mexican system.

The choice of the case to be analyzed occurred precisely because of its not only national, but also regional and international repercussion, as it involved regulation in the field of Mercosur, in addition to becoming a claim before the WTO (SAVIO, 2011). However, given the scope of this work, only the decision of the Brazilian court will be analyzed.

3.1 The interpretation of the scope and content of sustainable development by the Federal Supreme Court

In the case of Brazil, as noted above, the claim generated by the imposition of tire imports quotas (towing vehicles) was chosen through specific regulations that aim to avoid environmental contamination by waste from other Nations. The Brazilian national system, through the following instruments: Ordinance no. 8, of 1991, from the Department of Foreign Trade,

an agency linked to the Ministry of Development, Industry and Commerce (Decree DECEX 8/91); Ordinance no. 14, 2004, from the Foreign Trade Secretariat (Ordinance SECEX 14/04); and also, taking into account Ordinance no. 23, 1996, of the National Environment Council CONAMA) of the Ministry of the Environment (CONAMA Resolution 23/1996).

It should be noted that the claim submitted under the procedural type Claim of Breach of Fundamental Precept – APPF no. 101 (BRASIL, 2009), referred to two main arguments: i) the first related to the prevention of diseases caused by unused tires and tires that are not used and discarded incorrectly in the environment, which could promote the increase of diseases like dengue and malaria (since tires accumulate water that can serve as a source for the reproduction of mosquito vectors for these diseases); ii) pollution by substances harmful to the environment, due to the increase in waste caused by retreated tires, that is, an issue related to the environment.

As can be deduced from the excerpt from the decision

In the species in question, there are, on the one hand, a) the protection of fundamental precepts related to the right to health and the ecologically balanced environment, whose non-compliance would occur due to conflicting judicial decisions; and, on the other hand, b) sustainable economic development, in which, according to some, imports of used tires would be for their use as raw material by several companies, which, in turn, generate direct and indirect jobs (BRASIL, 2009, p. 41).

In fact, when analyzing the decision that generated intense debate in Brazil, not only in the public sphere, but also among producers and consumers, one of the essential points established by the judge-rapporteur in the process is need to comply with constitutional injunctions on sustainable development.

In the text of the decision, Judge Carmen Lucia, in addition to reaffirming the environmental protection conferred by 225 of the Brazilian Constitution from the perspective of sustainable development, considered that

the existence of an ecologically balanced environment means not only its preservation for the present generation, but also for future generations. And if the current motto is sustainable development, this concept includes economic growth with a parallel guarantee and respected in a superior way for the health of the population, whose rights must be observed taking into account not only current needs, but also those that can be predicted and should be prevented for future ones.

In other words, it combines the content and scope of an international principle incorporated into the Brazilian national system, through a sectorial and, therefore, specific situation, deciding on the prevalence of environmental protection. It is also necessary to point out that the scope was precisely determined when the environmental variable – the pillar of environmental protection – is interpreted in order to achieve the highest level of environmental protection, avoiding contamination by toxic waste.

Thus, the failure is evident when it is mentioned

The imperative nature of guaranteeing economic development must not be denied. Especially on days like today, when the global economic crisis causes a social crisis, due to its undeniable and immediate repercussions on people's lives. But the crisis is not resolved due to non-compliance with fundamental precepts or non-compliance with the Constitution. After all, as mentioned earlier, an economic crisis cannot be solved by creating another crisis that is harmful to people's health and the environment. The economic bill cannot be exchanged with the protection of human health or with the environmental deterioration of this and future generations (BRASIL, 2009, p. 98).

The decision was really relevant to deepen and materialize the constitutional structure aimed at environmental protection and also serves, until today, as a precedent for subsequent decisions on the subject, although, unfortunately, not all with the high degree of protection that was culminated with ADPF no. 101.

In a way, the fact that the application of the principle, at that time, resulted in content that was effectively protective to the environment, even under the “pressure” of tire producers and importers. It is an emblematic failure from the point of view of enabling a very broad scope that can be subtracted as a fundamental element for interpretations in favor of the environment, which presents the economic variable intensively and, in a way, always used as an excuse to undermine the regulation based on sustainable development.

Thus, it is also revealed by Sarlet and Fensterseifer (2013, p. 341):

The prejudices caused to public health and the protection to the environment by importing used tires were well pointed out in the STF decision, mainly with regard to the fact that, in addition to the important environmental responsibility produced annually in Brazil, importing millions of used tires, without the country having a technological process for the environmentally safe and effective final disposal of the generated solid waste, ends up causing inestimable ecological degradation. These are due to the fact that the methods now adopted do not recompose these residues, but only transform them by incineration, resulting in the emission of extremely toxic

and mutation substances, which cause serious negative effects on health and the environment.

Finally, and in order to exemplify how the premises can be established so that the principle of sustainable development really is achieved – from its scope, content and recipients – and effectively applied, it should be mentioned that the Brazilian Supreme Court’s decision mentioned several international acts⁷ (agreements, protocols, treaties, etc.), thus basing itself on the international system of which the State is an inherent and undeniable part.

CONCLUSION

The principle of sustainable development, considered the main source of environmental law, was born facing an international, regional and national concept, becoming a kind of meta-principle that overlaps all components, sectors, programs and actions in the public and private spheres, underlying, therefore, the classic definition of the three pillars, currently revised of the provision in the Sustainable Development Goals (UN, 2012).

Although it is already expressly treated by the doctrine, it is still necessary to clarify the aspects related to it, mainly its content, scope and recipients, since it is a principle that, in its conception itself, presents a high degree of abstraction, in addition to generating a wide margin of interpretation when in contrast with other instruments (or even with other principles) that, to a greater or lesser degree, create an imbalance that can occur between the pillars mentioned above.

Thus, this work involved an analysis of the aforementioned aspects of the principle, seeking to establish a common line that can signal its implementation, in order to understand the interpretation that was given in the higher courts of Mexico and Brazil, without however the intention of making an exhaustive and comparative study of the whole jurisprudence of both countries, and, from the choice of the paradigmatic case in the two courts, tried to align the observance (or not) of the principle in question.

The abstract nature of the principle, as already mentioned, requires that a permanent effort should be made to “capture” the meaning attributed to it when applied in conjunction with other principles that can also be provided for in national systems, that is, the combination of environmental protection with economic growth leads to the need for paying attention to

⁷ See especially pages 44 and the following of already mentioned ADPF no. 101.

the fact that the environment can be effectively guaranteed to an effective degree in order to safeguard the elements intrinsic to human existence itself. This is what sustainable development and intergenerational equity are about: promoting the environment so that it does not jeopardize or harm present and future generations.

For this, and as an inherent part of the principles established internationally in different instruments, one should seek a complete materialization and effective applicability, formulating the essential premises for this work, through specific regulatory acts, which enable the proper protection to the environment. As evidenced in the introduction to this article, the objective was to determine the content, scope and recipient of the sustainable development of judicial decisions of the courts in Brazil and Mexico, in order to point out the similarities in the interpretations and application of the principle.

For this, two decisions (considered paradigmatic) were analyzed, as an exemplary parameter of the referred study, based on results anchored in the deductive and comparative method, finding the existence of similar interpretations – although adapted to the respective national systems (Mexico and Brazil) –, which reinforces the idea of coherence of the principle in international orders, but grounded on an already established international level.

Through the historical method, there was a progressive evolution, albeit fragmented and dispersed, of the regulation of the principle – internationally and nationally – and its impact on national systems, notably on the decision of the Brazilian Federal Supreme Court, in which numerous instruments were cited that served as a point of reference for the decision to result in a clear interpretation, capable of guaranteeing the protection to the environment to the detriment of other pillars (mainly the economic one), materializing its content, scope and recipients.

REFERENCES

BRASIL. Supremo Tribunal Federal. ADPF 101, Relator(a): Min. CÁRMEN LÚCIA, Tribunal Pleno, julgado em 24/06/2009, DJe-108 DIVULG 01-06-2012 PUBLIC 04-06-2012 EMENT VOL-02654-01 PP-00001. Available at: <http://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=AC&docID=629955>. Access on: Apr 01, 2020.

CALDAS, R. C. S. G.; MATA DIZ, J. B. Soberania permanente sobre as riquezas e os recursos naturais dos Estados: uma interpretação sistêmica

do artigo 47 do Pacto Internacional de Direitos Civis e Políticos (PIDCP). *Revista Juris Plenum*, Caxias do Sul, ano III, v. 11, set. 2016.

CANÇADO TRINDADE, A. A. *Direitos humanos e meio-ambiente: paralelo dos sistemas de proteção internacional*. Porto Alegre: Sergio Antonio Fabris, 1993.

CAPPELLETTI, M. Formações sociais e interesses coletivos diante da justiça civil. *Revista de Processo*, São Paulo, n. 5, p. 128-159, jan./mar. 1977.

COSTA, B. S.; MATA DIZ, J. B. Acceso a la justicia y los instrumentos procesales de protección al medio ambiente en Brasil Acceso a la justicia y los instrumentos procesales de protección al medio ambiente en Brasil. In: SOARES, C. H. *Proceso democrático y garantismo procesal*. Belo Horizonte: Arraes, 2015. p. 274-291.

DERANI, C. *Direito Ambiental Econômico*. 3. ed. São Paulo: Saraiva, 2008.

DÍAZ BARRADO, C. M. Los objetivos de desarrollo sostenible: un principio de naturaleza incierta y varias dimensiones fragmentadas. *Anuario Español de Derecho Internacional*, v. 32, p. 17, 2016. Available at: <https://dadun.unav.edu/bitstream/10171/45759/1/8210-32139-1-PB.pdf>. Access on: Feb 14, 2019.

ELKINGTON, J. Enter the Triple Bottom Line. In: HENRIQUES, A.; RICHARDSON, J. *The triple bottom line, does it all add up?: assessing the sustainability of business and CSR*. London. Earthscan, 2004. p. 1-16.

FERNÁNDEZ, S. A. El principio de integración medioambiental dentro de la Unión Europea: la imbricación entre integración y desarrollo sostenible. *Papers*, v. 71, p. 77-97, 2003. Available at: <http://www.raco.cat/index.php/papers/article/viewFile/25756/25590>>. Access on: Apr 01, 2020.

FIORILLO, C. A. P. *Curso de Direito Ambiental Brasileiro*. 12. ed. São Paulo: Saraiva, 2011.

FITZMAURICE, M. International Protection of the Environment. *Recueil des Cours de l'Académie de Droit International*, Tomo 293, 2001, Martinus Nijhoff Publishers, La Haya, 2002.

GAIO, D.; GAIO, A. O princípio do desenvolvimento sustentável e o Supremo Tribunal Federal: o caso do Canal do Valo Grande (SP). In: MATA DIZ, J. B.; MOLINA DEL POZO, C. F.; MORENO MOLINA, J. A. (Org.).

Jurisprudencia ambiental en Iberoamerica. Belo Horizonte: Arraes, 2016. p. 57-65.

LEUZINGER, M. D.; VARELLA, M. D. O meio ambiente na Constituição Federal e na legislação infraconstitucional: avanços ou retrocessos (1988 a 2014)? *Revista Nomos*, Fortaleza, v. 34, n. 2, p. 299-314, jul./dez. 2014.

LÓPEZ BASSOLS, H. Caso concerniente al proyecto Gabčíkovo-Nagyymaros. *Lex Tantum, Anuario de la Escuela de Derecho de la Universidad Anáhuac de Xalapa*, vol.1, núm.1, marzo 2004, Xalapa, México.

MACHADO, P. A. L. *Direito Ambiental Brasileiro*. 6. ed. São Paulo: Revista dos Tribunais, 2007.

MACHADO, P. A. L. *Direito Ambiental Brasileiro*. 22. ed. São Paulo: Malheiros, 2014.

MANCUSO, R. C. *Interesses difusos: conceito e legitimação para agir*. 4. ed. São Paulo: Revista dos Tribunais, 1997.

MARTÍN, C. P. Medio ambiente en la Unión Europea. In: ÁLVAREZ, L. O.; GARCÍA, C. A. *Tratado de derecho ambiental*. Valencia: Tirant lo Blanch, 2013.

MATA DIZ, J. B.; SOARES ALMEIDA, F. T. A incorporação dos princípios ambientais internacionais pelo sistema jurídico brasileiro e a promoção da sustentabilidade ambiental. In: CUNHA, B. P.; SILVA, M. R. F.; DOMINGOS, T. O. (coords.). *Direito e sustentabilidade I*. Florianópolis: CONPEDI, 2014, p. 111-138. Available at: <http://www.publicadireito.com.br/artigos/?cod=cff131894d0d56ca>. Access on: Apr 01, 2020.

MEXICO. Constitución Política de los Estados Unidos Mexicanos, *Diario Oficial de la Federación de 5 de febrero de 1917*, artículo 25.

MEXICO. Ley General del Equilibrio Ecológico y la Protección al Ambiente, *Diario Oficial de la Federación de 28 de enero de 1988*, artículo 1.

MEXICO. Ley de Desarrollo Rural Sustentable. *Diario Oficial de la Federación de 7 de diciembre de 2001a*.

MEXICO. Plan Nacional de Desarrollo 2001-2006, *Diario Oficial de la Federación de 30 de mayo de 2001b*.

MEXICO. Programa Nacional de Medio Ambiente y Recursos Naturales 2001-2006, *Diario Oficial de la Federación de 11 de Junio de 2002*.

MEXICO. Ley de Desarrollo Forestal Sustentable. *Diario Oficial de la Federación de 25 de febrero de 2003*.

MEXICO. Ley General de Pesca y Acuicultura Sustentables. *Diario Oficial de la Federación de 24 de julio de 2007a*.

MEXICO. Plan Nacional de Desarrollo 2007-2012, *Diario Oficial de la Federación de 31 de mayo de 2007b*.

MEXICO. Programa Nacional de Medio Ambiente 2007-2012, *Diario Oficial de la Federación de 21 de enero de 2008*.

MEXICO. Tesis I.4º.A.811 A 9ª, Tribunales Colegiados de Circuito, *Seminario Judicial de la Federación y su Gaceta*, Libro XI, agosto de 2012, Tomo 2.

MEXICO. Plan Nacional de Desarrollo 2013-2018, *Diario Oficial de la Federación de 20 de mayo de 2013a*.

MEXICO. Programa Sectorial de Medio Ambiente y Recursos Naturales 2013-2018, *Diario Oficial de la Federación de 20 de agosto de 2013b*.

MEXICO. Tesis XXVII.3º.16CS (10ª), Tribunales Colegiados de Circuito, *Gaceta del Seminario Judicial de la Federación*, Libro 55, Junio de 2018, Tomo IV.

MEXICO. Plan Nacional de Desarrollo 2019-2024, *Diario Oficial de la Federación de 12 de julio de 2019*.

MILARÉ, É. *Direito do Ambiente*. 3. ed. São Paulo: RT, 2004.

MILARÉ, É. *Direito do Ambiente*. 9. ed. São Paulo: RT, 2014.

MORENO PLATA, M. *Génesis, evolución y tendencias del principio de sostenibilidad en el derecho del Medio Ambiente*. Tesis Doctoral – Facultad de Derecho, Universidad de Alicante, Alicante, 2008.

NAREDO, J. M. Sobre el origen, el uso y el contenido del término sostenible. *Cuadernos de Investigación Urbanística*, n. 41, p. 12, 1996.

OECD – ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *Environmental Outlook to 2030*, Paris, 2008

OLIVEIRA CLARO, P. B.; CLARO, D. P.; AMANCIO, R. Entendendo o conceito de sustentabilidade nas organizações. *Revista Administração*, São Paulo, v. 43, n. 4, p. 289-300, out./dez. 2008. Available at: www.rausp.usp.br/download.asp?file=v4304289.pdf. Access on: Apr 09, 2016.

ONU – ORGANIZACIÓN NACIONES UNIDAS. El futuro que queremos, Declaración Final de la Conferencia de las Naciones Unidas sobre Desarrollo Sostenible, *Resolución de la Asamblea General de las Naciones Unidas el 27 de julio de 2012*, A/RES/66/288. Available at: <http://www.un.org/es/comun/docs/?symbol=A/RES/66/288>. Access on: Mar 15, 2018.

PADILHA, N. S. *Fundamentos constitucionais do Direito Ambiental Brasileiro*. Rio de Janeiro: Elsevier, 2010.

RODRIGO, Á. J. *El desafío del desarrollo sostenible: los principios de Derecho internacional relativos al desarrollo sostenible*. Madrid: Marcial Pons, 2015.

ROSENFELD, M. *A identidade do sujeito constitucional*. Belo Horizonte: Mandamentos, 2003.

SACHS, I. O desenvolvimento sustentável: do conceito à ação, de Estocolmo a Joanesburgo. In: VARELLA, M. D.; BARROS-PLATIAU, A. F. (Orgs.). *Proteção internacional do meio ambiente*. Brasília, DF: UNICEB/UnB/UNITAR, 2009.

SARLET, I. W.; FENSTERSEIFER, T. *Direito constitucional ambiental: Constituição, direitos fundamentais e proteção do ambiente*. 3. ed. rev., atual. e ampl. São Paulo: Revista dos Tribunais, 2013.

SAVIO, A. M. S. O caso dos pneus perante a OMC e o Mercosul. *Revista Universitas: Relações Internacionais*, Brasília, DF, v. 9, n. 1, p. 349-370, 2011. Available at: <https://www.jus.uniceub.br/relacoesinternacionais/article/view/1361/1343>. Access on: Apr 01, 2020.

SILVA, S. T. *O Direito Ambiental Internacional*. Belo Horizonte: Del Rey, 2009. (Coleção Para Entender).

Tesis I.4º.A.811 A 9ª, Tribunales Colegiados de Circuito, Seminario Judicial de la Federación y su Gaceta, Libro XI, agosto de 2012, Tomo 2.

Tesis XXVII.3º.16CS (10ª), Tribunales Colegiados de Circuito, Gaceta del Seminario Judicial de la Federación, Libro 55, Junio de 2018, Tomo IV.

VIANA, R. G. C. A política ambiental em nível internacional e sua influência no direito pátrio. In: FONSECA, R. F.; BAPTISTA, L. O. (orgs.). *O direito internacional no terceiro milênio*. São Paulo: LTr, 1998.

Article received on: 02/21/2020.

Article accepted on 03/31/2020.

How to mention this article (ABNT):

GARCÍA LÓPEZ, T.; MATA DIZ, J. B.; SILVA, R. F. T. GARCÍA LÓPEZ, T.; MATA DIZ, J. B.; SILVA, R. F. T. For a common definition of Mexico-Brazil sustainable development: a case study from their national courts. *Veredas do Direito*, Belo Horizonte, v. 17, n. 37, p. 105-134, ene.-abr. 2020. Available at: <http://www.domhelder.edu.br/revista/index.php/veredas/article/view/1785>. Access on: Month day, year.