

BETWEEN GREEN MARKETING AND ENVIRONMENTAL FRAUD: GREENWASHING AS A VIOLATION OF DIFFUSE RIGHTS

ENTRE O MARKETING VERDE E A FRAUDE AMBIENTAL: O GREENWASHING COMO VIOLAÇÃO DE DIREITOS DIFUSOS

Article received on: 1/16/2026

Article accepted on: 4/15/2026

Marcus Dhilermando Hora de Souza*

*Universidade Federal de Viçosa (UFV), Viçosa, Minas Gerais, Brasil

Lattes: <http://lattes.cnpq.br/6216782589471402>

Orcid: <https://orcid.org/0000-0003-3897-5527>

marcus.d.souza@ufv.br

Mateus Sangoi Frozza**

**Universidade Federal de Santa Maria (UFSM), Santa Maria, Rio Grande do Sul, Brasil

Lattes: <http://lattes.cnpq.br/3249523420604248>

Orcid: <https://orcid.org/0009-0000-3528-9535>

mateusfrozza@gmail.com

Suele de Souza Rosa***

***Centro Universitário Leonardo da Vinci (UNIASSELVI), Palhoça, Santa Catarina, Brasil

Lattes: <http://lattes.cnpq.br/6053922230380193>

Orcid: <https://orcid.org/0009-0005-4849-1739>

suelesouzarosa@gmail.com

Lucas Soares Miguez****

****Universidade Federal do Paraná (UFPR), Curitiba, Paraná, Brasil

Lattes: <http://lattes.cnpq.br/0987743728258093>

Orcid: <https://orcid.org/0000-0001-7759-8248>

lucas.miguez@ufpr.br

Thainá Aloisio Saraiva****

****Universidade Federal do Paraná (UFPR), Curitiba, Paraná, Brasil

Lattes: <http://lattes.cnpq.br/5005286123818924b>

Orcid: <https://orcid.org/0009-0003-3010-0010>

thaina.aloisio@ufpr.br

Julia Silva Rodrigues****

****Universidade Federal do Paraná (UFPR), Curitiba, Paraná, Brasil

Lattes: <https://lattes.cnpq.br/7935773476868714>

Orcid: <https://orcid.org/0009-0004-6304-4710>

julia.s.rodrigues.21@ufpr.br

Janaina Silva de Matos****

****Universidade Federal do Paraná (UFPR), Curitiba, Paraná, Brasil

Lattes: <https://lattes.cnpq.br/8549680897545480>

Orcid: <https://orcid.org/0009-0007-3316-0907>

janainamatos697@gmail.com

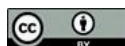
The authors declare that there is no conflict of interest

Abstract

This study examines greenwashing as a phenomenon that extends beyond the scope of misleading advertising, proposing its interpretation as a violation of diffuse rights

Resumo

Analisamos o greenwashing como fenômeno que ultrapassa a esfera da publicidade enganosa, propondo sua compreensão como violação de direitos difusos no âmbito do Direito Ambiental.



within the framework of Environmental Law. Initially, it discusses the conceptual evolution of the term, highlighting its critical origins and its consolidation as a structural practice associated with the dissociation between actual environmental performance and corporate communication. The study demonstrates that greenwashing takes multiple forms, including omissions, vague claims, dubious certifications, and symbolic strategies, thus characterizing it as a multifaceted and multi-level phenomenon. From an economic perspective, it is interpreted as a manifestation of information asymmetry, generating market failures and distorting consumer and investment decisions. The legal analysis shows that such practices undermine diffuse rights, particularly the right to adequate environmental information and the protection of an ecologically balanced environment. Greenwashing produces collective harms, including informational damage, erosion of social trust, competitive distortions, and indirect environmental impacts. Furthermore, the article discusses structural factors that foster the phenomenon, such as corporate governance incentives and limitations of ESG metrics. Finally, it proposes an integrated analytical framework and argues for the need for a more robust regulatory response, grounded in transparency, standardization, and the integration of environmental law, corporate governance, and economic regulation.

Keywords: Corporate Sustainability. Information Asymmetry. Environmental Responsibility. Economic Regulation.

Inicialmente, discute-se a evolução conceitual do termo, destacando sua origem crítica e sua consolidação como prática estrutural associada à dissociação entre desempenho ambiental real e comunicação corporativa. O estudo evidencia que o greenwashing assume múltiplas formas, incluindo omissões, alegações vagas, certificações duvidosas e estratégias simbólicas, caracterizando-se como fenômeno multifacetado e multinível. Sob a perspectiva econômica, é interpretado como manifestação de assimetria informacional, gerando falhas de mercado e distorcendo decisões de consumo e investimento. A análise jurídica demonstra que tais práticas comprometem direitos difusos, especialmente o direito à informação ambiental adequada e a proteção do meio ambiente ecologicamente equilibrado. O greenwashing produz danos coletivos, como prejuízos informacionais, erosão da confiança social, distorções concorrenciais e impactos ambientais indiretos. Além disso, o artigo discute fatores estruturais que favorecem o fenômeno, como incentivos da governança corporativa e limitações das métricas ESG. Por fim, propõe um framework analítico integrado e defende a necessidade de uma resposta regulatória mais robusta, baseada na transparência, padronização e integração entre direito ambiental, governança e regulação econômica.

Palavras-chave: Sustentabilidade Corporativa. Assimetria Informacional. Responsabilidade Ambiental. Regulação Econômica.

1 INTRODUCTION

Environmental sustainability has become a central axis of corporate strategies and contemporary regulation, driving the adoption of practices oriented toward socio-environmental responsibility. In this context, environmental communication plays a key role in shaping organizational legitimacy before consumers, investors, and other stakeholders.

However, the growing valorization of sustainability has also fostered the expansion of greenwashing, characterized by the discrepancy between actual

environmental performance and the information disclosed by organizations. This practice involves omissions, vague or false claims, and symbolic strategies aimed at constructing a positive environmental image without effective correspondence to reality.

The international literature has advanced in analyzing this phenomenon, particularly through approaches related to information asymmetry, agency theory, and governance failures. In this sense, greenwashing can be understood as the result of structural incentives that prioritize the appearance of sustainability over its substantive implementation.

Despite this, its legal treatment remains limited, often confined to misleading advertising within the scope of Consumer Law. Such an approach is insufficient, as it overlooks the collective impacts of the practice, which extend beyond the individual sphere.

This article argues that greenwashing constitutes a violation of diffuse rights, particularly by undermining the right to adequate environmental information, social trust, and the proper functioning of sustainable markets. By distorting perceptions of environmental reality, such practices interfere with collective decision-making and hinder the effectiveness of environmental protection.

In light of this, the article proposes a reinterpretation of the phenomenon from the perspective of Environmental Law, based on an interdisciplinary approach. Its objective is to highlight the need for improved regulatory and accountability mechanisms in order to ensure greater transparency and effectiveness in contemporary environmental governance.

2 CONCEPTUAL FOUNDATIONS OF GREENWASHING

2.1 Evolution of the concept

The concept of greenwashing emerged in the context of critiques of corporate practices that use environmental discourse as a marketing strategy dissociated from concrete actions. The origin of the term is attributed to Jay Westerveld in 1986, when he denounced symbolic sustainability practices adopted by hotel chains that encouraged

towel reuse under environmental justifications, without promoting structural changes in their operations (Freitas Netto *et al.*, 2020).

Since its initial formulation, the phenomenon has evolved significantly, accompanying the expansion of corporate social responsibility (CSR) and, more recently, the ESG agenda. Over the past decades, the instrumental use of environmental claims has become central to public debates on corporate responsibility, often associated with the practice of “not walking the talk.”

The literature shows that, three decades after its emergence, greenwashing has not only expanded but has also become more sophisticated and globally widespread (Gatti; Seele; Rademacher, 2019). This growth is directly related to increasing societal pressure for sustainability and the rising economic value of environmental reputation.

In this context, companies face growing incentives to communicate environmental responsibility, even in the absence of substantive changes in their practices. Lyon and Maxwell (2011) argue that greenwashing consists of the selective disclosure of positive environmental information without corresponding transparency regarding negative impacts. Similarly, Delmas and Burbano (2011) define the phenomenon as the combination of poor environmental performance and positive environmental communication.

Thus, the literature consolidates the understanding of greenwashing as a structural distortion between practice and communication, characterized by the dissociation between actual environmental performance and the narrative constructed by organizations. Walker and Wan (2012) reinforce this interpretation by demonstrating that symbolic actions often substitute for substantive changes, creating a gap between image and reality.

Additionally, Gatti *et al.* (2019) highlight that the expansion of the phenomenon is associated with the predominance of voluntary CSR models, which create regulatory “grey zones” where environmental communication can be manipulated without adequate accountability. Therefore, greenwashing should be understood as a global, systemic, and dynamic phenomenon, driven by the increasing relevance of sustainability in markets and the insufficiency of effective regulatory mechanisms.

2.2 Typologies and forms of manifestation

The literature shows that greenwashing is not a homogeneous practice, but a set of multifaceted strategies operating across different organizational and communicational levels. As noted by Gatti *et al.* (2019), there is no single definition, and approaches vary according to the degree of falsity, intentionality, and form of manifestation.

A key distinction is between product-based and communication-based greenwashing. The former involves inconsistencies between a product's environmental attributes and its claims, while the latter refers to the gap between corporate communication and actual practices (Linder, 2010).

Common manifestations include selective disclosure of positive information, omission of relevant data, vague or ambiguous claims, false or unverifiable statements, use of questionable certifications, and symbolic representations of sustainability (Lyon; Maxwell, 2011). These practices may occur at both corporate and product levels, encompassing reports, advertising, labels, and institutional strategies (Gatti *et al.*, 2019).

Yang *et al.* (2020) also highlight strategies such as *decoupling*, attention deflection, and misleading manipulation, reinforcing the phenomenon's strategic nature.

Overall, greenwashing is a multi-level and multidimensional phenomenon, operating across communicational, organizational, and institutional spheres, which makes its identification and regulation particularly challenging.

2.3 Greenwashing as information asymmetry

From an economic and institutional perspective, greenwashing can be interpreted as a manifestation of information asymmetry, in which firms possess more knowledge about their environmental performance than consumers, investors, and regulators. This asymmetry generates a market failure, as it prevents economic agents from making fully informed decisions. Lyon and Maxwell (2006) emphasize that the lack of transparency enables firms to manipulate public perception, thereby influencing consumption and investment choices.

Gatti *et al.* (2019) further argue that the phenomenon is directly linked to the dissemination of incomplete or misleading environmental information, which contributes

to increasing consumer skepticism and distrust toward corporate claims. In addition, the literature shows that greenwashing distorts the allocation of economic resources by favoring firms that invest in environmental communication rather than those that genuinely adopt sustainable practices.

Ghitti, Gianfrate, and Palma (2024) demonstrate that discrepancies between ESG ratings and firms' actual environmental performance reveal informational inconsistencies that may conceal greenwashing practices. This situation creates a clear economic incentive: appearing sustainable may be more advantageous than being sustainable, particularly in weak regulatory environments.

As a consequence, greenwashing undermines the efficiency of sustainable markets, reduces the credibility of environmental policies, and hinders the transition toward more responsible production models. Therefore, greenwashing should not be understood merely as a communicational issue, but as a structural failure in environmental information systems, characterized by the gap between performance and disclosure, with significant economic, social, and environmental implications.

3 GREENWASHING AS A VIOLATION OF DIFFUSE RIGHTS

The consolidation of greenwashing as a recurring phenomenon in the contemporary economy requires its reinterpretation beyond the traditional categories of Consumer Law. Recent literature demonstrates that its effects extend beyond the individual sphere, affecting transindividual interests and undermining the very effectiveness of environmental protection. In this sense, greenwashing should be understood as a practice that violates diffuse rights, particularly by affecting informational integrity, collective trust, and the proper functioning of sustainable markets.

3.1 Diffuse rights in environmental law

Diffuse rights occupy a central position in contemporary Environmental Law, characterized by their transindividual nature, indivisibility, and indeterminate ownership.

Unlike individual rights, diffuse rights belong simultaneously to all and to no one in particular, and therefore cannot be fragmented or exclusively appropriated.

In the environmental context, this logic is paradigmatically expressed, as an ecologically balanced environment constitutes a legal good of common use by the people, as established in Article 225 of the Brazilian Federal Constitution (Brazil, 1988). It is a right whose protection extends beyond individual interests, encompassing present and future generations, thus representing a typical diffuse right.

The indivisibility of this right implies that its violation cannot be segmented, as environmental impacts—whether direct or indirect—affect the entire community. Moreover, its indeterminate ownership reinforces the idea that there is no specific injured party, but rather an undefined group of individuals affected simultaneously.

In this context, practices that distort the social perception of environmental reality, such as greenwashing, must be analyzed within this collective dimension. By interfering with how society understands the environmental performance of organizations, such practices affect a diffuse legal good: the integrity of the environmental protection system itself.

3.2 Right to environmental information

Environmental protection presupposes the existence of adequate, transparent, and reliable information flows. The right to environmental information thus constitutes a structural element of environmental governance, enabling citizens, consumers, investors, and public institutions to make informed decisions and actively participate in environmental protection.

Both legal and economic literature recognize that information is a necessary condition for the efficient functioning of markets and the effectiveness of environmental policies. Lyon and Maxwell (2011) demonstrate that the selective disclosure of environmental information undermines the ability of economic agents to accurately assess corporate performance, thereby generating distortions in consumption and investment decisions.

In this sense, transparency is not merely an abstract value, but an essential democratic principle, as it ensures access to the information required for the exercise of

environmental citizenship. Gatti *et al.* (2019) emphasize that the dissemination of incomplete or misleading environmental information contributes to increased social skepticism and to the erosion of trust in corporate claims.

Greenwashing, by manipulating or distorting environmental information, directly undermines this right. By inducing misleading perceptions about sustainability practices, it reduces society's ability to distinguish between organizations genuinely committed to sustainability and those that merely simulate such commitment.

Consequently, the phenomenon affects not only individual decision-making but also collective rationality, impairing deliberative processes and the development of effective public policies. It therefore constitutes a violation that transcends the individual consumer and reaches the diffuse right to adequate environmental information.

3.3 Greenwashing as collective harm

Understanding greenwashing as a violation of diffuse rights requires recognizing its effects as a form of collective harm. Unlike individual damages, which affect specific subjects, the harm resulting from greenwashing manifests in a diffuse manner, simultaneously impacting multiple actors and systems.

First, it involves collective informational harm, arising from the systematic distortion of environmental information. By disclosing incomplete, selective, or misleading data, firms degrade the quality of the informational environment that underpins rational decision-making. As noted by Gatti *et al.* (2019), the proliferation of misleading environmental claims fosters consumer confusion and skepticism, making it harder to identify genuinely sustainable practices.

Second, the phenomenon generates harm to social trust, a key condition for the functioning of economic and regulatory systems. Trust in environmental information is essential to the credibility of sustainability policies and ESG governance instruments. When such trust is eroded, the resulting systemic effect extends beyond individual firms, undermining the entire sustainability ecosystem.

Third, greenwashing produces distortions in sustainable markets by affecting competitive dynamics. Firms that invest in environmental communication without internalizing the real costs of sustainability gain undue competitive advantages over those

that adopt substantive practices. This reduces market efficiency, discourages sustainable investment, and compromises the optimal allocation of resources.

Finally, there is indirect environmental harm, often overlooked. By obscuring the identification of authentic sustainable practices and favoring unsustainable production models, greenwashing contributes to the persistence of negative environmental impacts. As highlighted in the literature, such practices may reduce the effectiveness of environmental policies and delay ecological transition processes, affecting the environment in a mediated yet significant way.

In this context, the impacts of greenwashing extend to consumers, investors, regulators, firms, and society at large, evidencing its diffuse and systemic nature. By simultaneously undermining information, trust, market dynamics, and environmental protection, greenwashing constitutes a complex form of collective harm, whose proper understanding is essential for the development of effective legal responses.

Thus, analyzing greenwashing through the lens of diffuse rights allows for overcoming restrictive approaches limited to misleading advertising, recognizing its broader dimension as a structural environmental-legal issue.

4 CORPORATE GOVERNANCE AND INCENTIVES

Corporate governance plays a key role in shaping organizational incentives. As sustainability gains importance, environmental reputation has become a strategic asset, influencing access to capital, market value, and legitimacy.

This reputational pressure—from investors, consumers, and regulators—encourages firms to adopt environmental communication strategies aimed at building a positive image, often without substantive performance improvements. Greenwashing is thus linked to the pursuit of symbolic legitimacy, where communication substitutes for real change.

Gatti, Seele, and Rademacher (2019) note that the growing use of environmental claims in CSR reflects the need to meet external expectations, frequently without proper verification. As a result, corporate governance can both mitigate and enable greenwashing, depending on the strength of transparency and accountability mechanisms.

Moreover, governance focused on short-term financial results tends to favor low-cost, high-reputation communication over long-term sustainability investments. In this context, greenwashing can be seen as a rational response to asymmetric incentives, where the benefits of appearing sustainable outweigh the risks of accountability.

4.1 Limitations of ESG metrics

The rise of ESG criteria has advanced the integration of sustainability into financial markets, but these metrics present key limitations that facilitate greenwashing.

A major issue is the lack of standardization, as different rating agencies use distinct methodologies, leading to inconsistent evaluations and reduced comparability. There is also significant divergence among indicators, and firms may achieve high ESG scores despite environmental controversies, revealing gaps between metrics and actual performance (Ghitti; Gianfrate; Palma, 2024).

Additionally, ESG assessments involve a high degree of subjectivity, often relying on self-reported data and qualitative judgments, which increases the risk of strategic manipulation.

These limitations create an imperfect informational environment, blurring the distinction between real performance and communication. As a result, the opacity and complexity of ESG systems provide fertile ground for greenwashing.

4.2 The gap between discourse and practice

The conceptual core of greenwashing lies in a structural mismatch between discourse and practice, often described in the literature as the gap between “talk” and “walk.” This phenomenon represents the dissociation between what organizations communicate and what they actually achieve in terms of environmental performance.

Walker and Wan (2012) demonstrate that firms may adopt symbolic sustainability actions—such as advertising campaigns, environmental reports, or voluntary commitments—without implementing substantive changes in their operations. This process, commonly referred to as *decoupling*, reflects an institutional logic in which symbolic conformity may be sufficient to secure organizational legitimacy.

Gatti *et al.* (2019) reinforce this perspective by emphasizing that greenwashing emerges when there is a divergence between responsible communication and corporate practices, illustrating the phenomenon of “not walking the talk.” This dissociation is not necessarily the result of direct fraud, but may stem from deliberate image-management strategies or structural limitations in the implementation of environmental policies.

The gap between discourse and practice thus constitutes the essence of greenwashing, revealing a rupture between representation and reality. It is a phenomenon that not only distorts public perception but also undermines the credibility of sustainability initiatives and the effectiveness of environmental policies.

Moreover, this dissociation has systemic implications, as it reduces the ability of markets and society to identify genuinely sustainable practices. By transforming sustainability into a discursive element disconnected from concrete outcomes, greenwashing weakens accountability mechanisms and hinders the transition toward more sustainable production models.

5 LEGAL AND REGULATORY IMPLICATIONS

The increasing sophistication of greenwashing has exposed the inadequacy of traditional legal instruments to address its effects, particularly when considering its diffuse and systemic impacts. Contemporary literature shows that the phenomenon cannot be reduced to misleading advertising, but must be understood as a structural issue involving environmental governance, information asymmetry, and market regulation (DE Freitas Netto *et al.*, 2020; Gatti; Seele; Rademacher, 2019).

In this context, the legal implications of greenwashing require an integrated approach that articulates informational, economic, and environmental dimensions, overcoming the normative fragmentation currently observed.

5.1 Limitations of the current model

The legal treatment of greenwashing has been predominantly grounded in Consumer Law, particularly through rules governing misleading advertising. Although

this approach allows for addressing clear cases of falsehood, it proves insufficient in light of the complexity of the phenomenon.

As highlighted by De Freitas Netto *et al.* (2020), greenwashing encompasses multiple forms of manifestation—such as omission of information, vague claims, and symbolic manipulation—that do not always fit neatly within traditional legal categories.

Furthermore, Gatti *et al.* (2019) point out that the predominance of voluntary corporate social responsibility mechanisms creates regulatory “grey zones” in which firms may exploit normative gaps to construct environmental narratives without adequate correspondence to actual practices.

Another critical limitation is the absence of a systemic environmental perspective. The current model tends to treat the issue as a communication failure, overlooking its broader impacts on the environment, market dynamics, and institutional trust. Nemes *et al.* (2022) demonstrate that greenwashing can occur across different domains—including climate commitments and certification schemes—thereby increasing its regulatory complexity.

Additionally, evidentiary challenges represent a significant obstacle. As noted by Yang *et al.* (2020), many greenwashing practices involve indirect strategies, such as *decoupling* and attention diversion, making their identification and legal accountability more difficult. Thus, the existing legal framework appears fragmented, reactive, and insufficient to address a phenomenon that operates across multiple levels and dimensions.

5.2 Legal liability

Understanding greenwashing as a violation of diffuse rights broadens legal accountability, particularly within collective civil liability. It entails collective informational harm arising from distorted environmental information, which fosters consumer confusion and skepticism (Gatti *et al.*, 2019) and impairs decision-making, constituting a market failure.

It also generates harm to social trust, undermining the credibility of sustainability initiatives and the broader system of environmental communication (Freitas Netto *et al.*, 2020). In addition, greenwashing distorts competition in sustainable markets, granting

undue advantages to firms that invest in communication rather than substantive environmental practices.

Finally, indirect environmental harm must be considered, as greenwashing diverts attention and resources from effective sustainability initiatives, weakening environmental policies and delaying ecological transition (Nemes *et al.*, 2022). Discrepancies between ESG ratings and actual performance further reveal informational failures that may conceal environmental impacts (Ghitti; Gianfrate; Palma, 2024).

Therefore, legal accountability should encompass multiple dimensions, including collective civil liability, administrative sanctions, and enforcement mechanisms aimed at reducing information asymmetry and protecting social trust.

5.3 Need for specific regulation

The limitations of the current framework highlight the need for a more robust and systemic regulatory approach to greenwashing.

A key challenge is the standardization of ESG disclosures, as the lack of uniform criteria increases subjectivity, reduces comparability, and enables strategic manipulation of environmental information. In this context, integrated assessment frameworks are essential to align communication, performance, and governance (Nemes *et al.*, 2022).

The implementation of independent audits is another critical instrument, as external verification can reduce misleading practices (Gatti *et al.*, 2019). Likewise, mandatory transparency requirements, including standardized environmental reporting and effective monitoring, are fundamental to mitigating information asymmetry and improving reliability.

Regulatory effectiveness also depends on the ability to identify diverse forms of greenwashing, including subtle practices such as *decoupling* between discourse and performance (Yang *et al.*, 2020).

Finally, the literature supports a hybrid regulatory model, combining voluntary and mandatory mechanisms to reduce regulatory “grey zones” and strengthen the credibility of environmental communication (Gatti *et al.*, 2019).

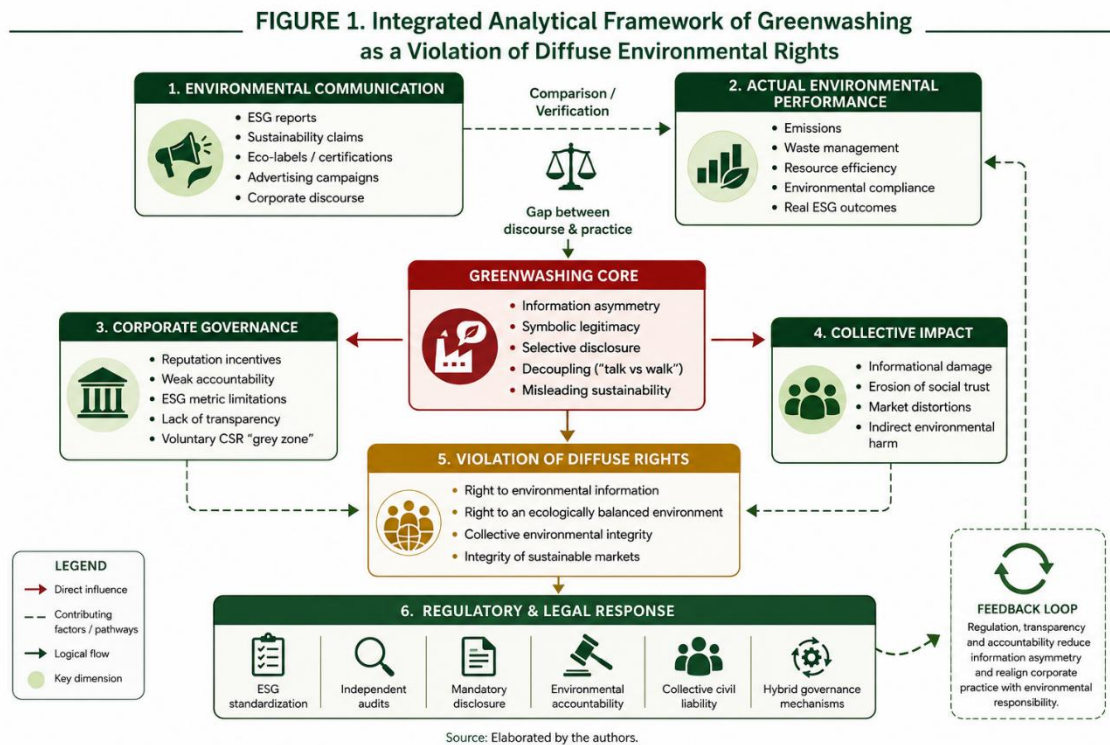
6 PROPOSED ANALYTICAL FRAMEWORK

The complexity and multifaceted nature of greenwashing require analytical tools capable of integrating communicational, operational, institutional, and legal dimensions. Recent literature indicates that fragmented approaches—focused solely on communication or environmental performance—are insufficient to capture the structural nature of the phenomenon (Freitas Netto *et al.*, 2020; Nemes *et al.*, 2022).

In light of this, this study proposes an integrated analytical framework designed to evaluate greenwashing through the interaction of four key dimensions: environmental communication, actual environmental performance, corporate governance, and collective impact. The framework seeks to overcome the traditional dichotomy between discourse and practice by incorporating institutional drivers and the broader systemic consequences of greenwashing.

Figure 1 illustrates the relationships among these dimensions, demonstrating how greenwashing emerges from the structural mismatch between environmental communication and actual environmental performance, reinforced by governance incentives and resulting in collective impacts that ultimately affect diffuse environmental rights.

Figure 1. Integrated analytical framework of greenwashing as a violation of diffuse environmental rights.



6.1 Environmental communication

The communicational dimension refers to the set of information, narratives, and symbols used by organizations to represent their environmental performance. It includes sustainability reports, advertising campaigns, eco-labels, certifications, and institutional statements.

According to Gatti *et al.* (2019), greenwashing frequently manifests through the selective amplification of positive aspects combined with the omission of negative information. Therefore, the analysis of communication should consider criteria such as clarity, verifiability, completeness, and consistency.

This dimension is central because it constitutes the primary interface between organizations and society, shaping public perception of sustainability. However, when analyzed in isolation, it is insufficient to identify greenwashing, as the credibility of communication depends on its alignment with actual performance.

6.2 Actual environmental performance

The second dimension refers to the effective environmental practices adopted by organizations, including natural resource management, emissions control, waste management, energy use, and compliance with environmental regulations.

As highlighted by Delmas and Burbano (2011), greenwashing occurs precisely when there is a dissociation between environmental performance and communication. Therefore, assessing the phenomenon requires a systematic comparison between what is disclosed and what is actually implemented.

Ghitti, Gianfrate, and Palma (2024) demonstrate that discrepancies between ESG indicators and real environmental outcomes can reveal significant inconsistencies, indicating the presence of greenwashing practices.

This dimension makes it possible to verify whether communicated sustainability claims are supported by empirical evidence, and is therefore essential for distinguishing legitimate strategies from misleading practices.

6.3 Corporate governance

The third dimension refers to the institutional mechanisms that shape organizational behavior, including decision-making structures, control systems, internal policies, and economic incentives.

The literature shows that greenwashing is not merely the result of isolated decisions, but rather stems from structural incentives associated with the pursuit of reputation and legitimacy (Gatti *et al.*, 2019). Yang *et al.* (2020) highlight that practices such as *decoupling*—the separation between discourse and practice—are often employed as strategies to meet external expectations without substantially altering internal organizational operations.

In this context, corporate governance can both mitigate and encourage greenwashing, depending on the presence of transparency mechanisms, independent auditing, accountability structures, and alignment between incentives and environmental performance. This dimension is essential for understanding the root causes of the

phenomenon, as it helps explain why firms may prioritize communication strategies over substantive environmental changes.

6.4 Collective impact

The fourth dimension concerns the systemic effects of greenwashing on society, markets, and the environment. Unlike traditional approaches that focus primarily on the firm-consumer relationship, this dimension incorporates the perspective of diffuse rights.

Nemes *et al.* (2022) emphasize that greenwashing may undermine the effectiveness of environmental policies by diverting resources and attention away from genuinely sustainable practices.

Furthermore, the phenomenon generates significant impacts on social trust, market efficiency, and the quality of the informational environment. As discussed in previous sections, these effects constitute forms of collective harm, including informational damage, erosion of trust, and indirect environmental harm.

The inclusion of this dimension represents an analytical advancement, as it allows greenwashing to be assessed not merely as an organizational practice, but as a diffuse environmental-legal issue with broader societal implications.

7 DISCUSSION

The analysis developed throughout this article demonstrates that greenwashing extends beyond the communicational sphere and assumes significant relevance within the field of Environmental Law. Traditionally treated as a form of misleading advertising, the phenomenon must be reinterpreted in light of its structural implications, particularly regarding environmental protection and the safeguarding of diffuse rights. In this regard, Gatti, Seele, and Rademacher (2019) emphasize that greenwashing emerges within regulatory “grey zones,” where the absence of clear rules and effective enforcement mechanisms allows the proliferation of practices that simulate environmental responsibility without substantive correspondence.

This finding reinforces the need to frame greenwashing as an environmental-legal phenomenon, as its effects are not limited to misleading consumers but also affect the

integrity of environmental governance systems. By distorting societal perceptions of organizational performance, such practices undermine the effectiveness of regulatory instruments and hinder the implementation of environmental public policies.

One of the most significant impacts of greenwashing concerns the ecological transition. The literature indicates that the consolidation of sustainable economic models depends on the ability to allocate resources toward genuinely environmentally responsible activities. In this context, De Freitas Netto *et al.* (2020) show that the dissemination of misleading environmental claims hinders the identification of authentic sustainable practices, thereby compromising the efficiency of green markets.

Nemes *et al.* (2022) reinforce this argument by demonstrating that greenwashing can divert investment and attention away from effective sustainability initiatives, reducing the effectiveness of global environmental mitigation strategies. This diversion directly undermines the transition toward a low-carbon economy, as it creates incentives to maintain unsustainable practices under the guise of environmental responsibility.

Moreover, the phenomenon presents a significant risk of delegitimizing sustainability. As consumers, investors, and society increasingly recognize inconsistencies between discourse and practice, skepticism toward environmental claims grows. Gatti *et al.* (2019) highlight that the proliferation of greenwashing erodes the credibility of corporate social responsibility initiatives, affecting not only individual firms but the entire system of environmental communication.

Chen and Chang (2013) empirically demonstrate that greenwashing reduces consumer trust and negatively affects brand value perception, highlighting its impacts on organizational legitimacy. This effect is particularly relevant in a context where trust constitutes a fundamental element for the functioning of sustainable markets and the effectiveness of environmental policies.

From an economic and institutional perspective, greenwashing can also be understood as a manifestation of market failures associated with information asymmetry. Lyon and Maxwell (2011) argue that the selective disclosure of information allows firms to exploit informational gaps to influence consumption and investment decisions, generating allocative distortions. In this scenario, the discrepancy between performance and communication undermines the efficiency of market mechanisms and favors opportunistic strategies.

Given this complexity, the need for an interdisciplinary approach to addressing greenwashing becomes evident. As emphasized by Delmas and Burbano (2011), the phenomenon results from the interaction of institutional, organizational, and regulatory factors, and therefore cannot be adequately understood from a single theoretical perspective.

The integration of Environmental Law, Consumer Law, Economics, and Corporate Governance is essential for developing effective responses. Yang *et al.* (2020) highlight that the diversity of greenwashing manifestations requires analytical and regulatory instruments capable of capturing its complexity.

Furthermore, Ghitti, Gianfrate, and Palma (2024) show that inconsistencies between ESG metrics and actual environmental performance reinforce the need to improve evaluation and control systems.

Therefore, the discussion indicates that greenwashing should be understood as a structural environmental-legal problem, with direct implications for the ecological transition, the legitimacy of sustainability, and the functioning of markets. Addressing it requires not only the strengthening of regulatory mechanisms but also the development of an interdisciplinary approach capable of integrating different fields of knowledge and promoting greater transparency, accountability, and effectiveness in contemporary environmental governance.

8 FINAL CONSIDERATIONS

This study has demonstrated that greenwashing extends beyond its traditional classification as misleading advertising, constituting a structural phenomenon associated with the distortion between environmental discourse and practice. The literature indicates that such practices do not merely mislead consumers, but also affect broader dimensions, including social trust, the efficiency of sustainable markets, and the effectiveness of environmental policies (Gatti; Seele; Rademacher, 2019; Freitas Netto *et al.*, 2020).

From this perspective, greenwashing can be understood as a violation of diffuse rights, particularly by undermining the right to adequate environmental information and interfering with the protection of an ecologically balanced environment. Its impacts

manifest collectively through informational, economic, and indirect environmental harms, reinforcing the need for its analysis within the framework of Environmental Law.

In light of this, addressing the phenomenon requires a more robust and integrated legal response capable of overcoming fragmented approaches. It is essential to articulate Environmental Law, corporate governance, and economic regulation in order to promote greater transparency, standardization of information, and effective accountability mechanisms.

Thus, recognizing greenwashing as an environmental-legal issue contributes to strengthening contemporary environmental governance and to fostering markets more aligned with sustainability.

REFERENCES

- BRASIL. Constituição (1988). **Constituição da República Federativa do Brasil de 1988**. Brasília, DF: Presidência da República, 1988.
- CHEN, Yu-Shan; CHANG, Ching-Hsun. Greenwash and green trust: the mediation effects of green consumer confusion and green perceived risk. **Journal of Business Ethics**, Dordrecht, v. 114, n. 3, p. 489–500, 2013. Disponível em: <https://doi.org/10.1007/s10551-012-1360-0>
- CHRISTENSEN, Hans B.; HAIL, Luzi; LEUZ, Christian. Mandatory CSR and sustainability reporting: economic analysis and literature review. **Review of Accounting Studies**, New York, v. 26, p. 1176–1248, 2021. Disponível em: <https://doi.org/10.1111/1475-679X.12362>
- DELMAS, Magali A.; BURBANO, Vanessa Cuerel. The drivers of greenwashing. **California Management Review**, Berkeley, v. 54, n. 1, p. 64–87, 2011. Disponível em: <https://doi.org/10.1525/cmr.2011.54.1.64>
- FREITAS NETTO, Sebastião Vieira *et al.* Concepts and forms of greenwashing: a systematic review. **Environmental Sciences Europe**, Heidelberg, v. 32, n. 19, 2020. Disponível em: <https://doi.org/10.1186/s12302-020-0300-3>
- GATTI, Lucia; SEELE, Peter; RADEMACHER, Lea. Grey zone in – greenwash out. A review of greenwashing research and implications for the voluntary-mandatory transition of CSR. **International Journal of Corporate Social Responsibility**, Cham, v. 4, n. 6, 2019. Disponível em: <https://doi.org/10.1186/s40991-019-0044-9>
- GHITTI, Marco; GIANFRATE, Gianfranco; PALMA, Lorenzo. The agency of greenwashing. **Journal of Management and Governance**, Dordrecht, v. 28, p. 905–941, 2024. Disponível em: <https://doi.org/10.1007/s10997-023-09683-8>
- LYON, Thomas P.; MAXWELL, John W. Greenwash: corporate environmental disclosure under threat of audit. **Journal of Economics & Management Strategy**,

Malden, v. 20, n. 1, p. 3–41, 2011. Disponível em: <https://doi.org/10.1111/j.1530-9134.2010.00288.x>

LYON, Thomas P.; MONTGOMERY, A. Wren. The means and end of greenwash. **Organization & Environment**, Thousand Oaks, v. 28, n. 2, p. 223–249, 2015. Disponível em: <https://doi.org/10.1177/1086026615575332>

NEMES, Noémi *et al.* An integrated framework to assess greenwashing. **Sustainability**, Basel, v. 14, n. 4431, 2022. Disponível em: <https://doi.org/10.3390/su14084431>

PARGUEL, Béatrice; BENOÎT-MOREAU, Florence; LARCENEUX, Fabrice. How sustainability ratings might deter greenwashing: a closer look at ethical corporate communication. **Journal of Business Ethics**, Dordrecht, v. 102, n. 1, p. 15–28, 2011. Disponível em: <https://doi.org/10.1007/s10551-011-0901-y>

WALKER, Kent; WAN, Fang. The harm of symbolic actions and greenwashing: corporate actions and communications on environmental performance and their financial implications. **Journal of Business Ethics**, Dordrecht, v. 109, n. 2, p. 227–242, 2012. Disponível em: <https://doi.org/10.1007/s10551-011-1122-4>

YANG, Zhaohua *et al.* Greenwashing behaviours: causes, taxonomy and consequences based on a systematic literature review. **Journal of Business Economics and Management**, Vilnius, v. 21, n. 5, p. 1486–1507, 2020. Disponível em: <https://doi.org/10.3846/jbem.2020.13225>