

Sustainability assessment from a legal perspective: legal instruments and the principle of responsibility in ecoethics

This work aims to expand the discussion on the intersection between sustainability assessment, Law, and Legal Sciences, from the perspective of the principle of eco-ethical responsibility, essential for the formation of truly sustainable societies. An interdisciplinary literature review was carried out, addressing the ethical foundations proposed by philosophers such as Jonas and Levinas, and exploring how these principles have been incorporated into contemporary legal structures. Furthermore, the role of environmental legislation and legal instruments in promoting balanced development was analyzed, considering the impacts of technological advances on natural resources and the importance of ensuring sustainability in its multiple dimensions: environmental, social, economic, and cultural. It is argued that, in addition to being an instrument of ethical assessment, sustainability requires a robust legal framework that implements the principle of intergenerational responsibility. Therefore, it is concluded that the integration between ecoethics and Law is fundamental for the construction of effective public policies and for the engagement of society in the search for sustainable solutions.

Palavras-chave: Environmental Ethics; Legal Ecoethics; Sustainability Assessment; Environmental Law; Intergenerational Responsibility; Sustainable Societies.

Avaliação de sustentabilidade sob a ótica jurídica: instrumentos legais e o princípio da responsabilidade na ecoética

Este trabalho visa expandir a discussão sobre a intersecção entre a avaliação de sustentabilidade, o Direito e as Ciências Jurídicas, sob o prisma do princípio da responsabilidade ecoética, essencial para a formação de sociedades verdadeiramente sustentáveis. Realizou-se uma revisão interdisciplinar da literatura, abordando os fundamentos éticos propostos por filósofos como Jonas e Levinas, e explorando como esses princípios têm sido incorporados nas estruturas legais contemporâneas. Além disso, analisou-se o papel da legislação ambiental e dos instrumentos jurídicos na promoção de um desenvolvimento equilibrado, considerando os impactos do avanço tecnológico sobre os recursos naturais e a importância de assegurar a sustentabilidade em suas múltiplas dimensões: ambiental, social, econômica e cultural. Argumenta-se que, além de ser um instrumento de avaliação ética, a sustentabilidade requer um arcabouço jurídico robusto que efetive o princípio da responsabilidade intergeracional. Portanto, conclui-se que a integração entre ecoética e Direito é fundamental para a construção de políticas públicas eficazes e para o engajamento da sociedade na busca por soluções sustentáveis.

Keywords: Ética Ambiental; Ecoética Jurídica; Avaliação de Sustentabilidade; Direito Ambiental; Responsabilidade Intergeneracional; Sociedades Sustentáveis.

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INTRODUCTION

As we enter deeper into the 21st century, changes in the planet's balance, caused by both human (anthropogenic) activities and natural processes, become more evident and frequent, highlighting a worrying reduction in sustainability levels in various spheres of life. This challenging panorama requires not only the critical assessment of sustainability through sophisticated methodologies and indicators, but also the need for an integrated approach that encompasses ethics, technology, and crucially, Law and Legal Sciences. The climate emergency reinforces this need, as Klein (2014) argues, by highlighting the interdependence between environmental sustainability and social justice.

As highlighted by Kinne (2001) of the Eco-Ethics International Union, the dynamics of human societies are in constant flux, subject to rapid and multidirectional changes. This reality contrasts with the staticity of many traditional ethical principles, which tend to remain immutable over time, even in the face of new environmental and social challenges. Raworth (2017) suggests that the complexity and changing nature of sustainability and its dimensions require a continuous review of ethical paradigms, as well as a new legal perspective that follows this evolution, promoting a balance between human needs and planetary limits.

Alencastro et al. (2004) observe that we live in a civilization strongly influenced by the rationality of modern sciences, in a world deeply marked and often harmed by technological intervention. The repercussions of these interventions often affect ecological systems, raising important questions about how new ethics, combined with an appropriate legal framework, can serve as a guide for more responsible human actions and as a mechanism to mitigate rapid environmental changes. In this sense, Stiglitz et al. (2010) discuss the importance of creating a new economic paradigm that integrates environmental and social concerns, fundamental for sustainable development.

Therefore, this work proposes to discuss, in a theoretical way, how sustainability assessment, enriched by a legal approach, can become an effective instrument of the principle of eco-ethical responsibility. Such an instrument is indispensable to guide the construction of societies that not only aspire to sustainability, but that are equipped with the legal and ethical means to achieve it. The synergy between ethics, environmental legislation, and sustainable governance will be explored, aiming to identify paths for the formulation of public policies, corporate practices and individual behaviors that are aligned with sustainability imperatives in an era of unprecedented environmental challenges, as articulated by Sachs (2015), in his analysis of the UN Sustainable Development Goals.

METHODOLOGY

A methodology structured into five key stages was adopted: initially, a comprehensive bibliographic review was carried out to identify and select relevant literature, covering the evolution of the concepts of ethics, bioethics, ecoethics, technological development and their intersections with Law. The analysis and synthesis of keywords followed, allowing the identification of patterns and divergences in academic debates. The third stage focused on interdisciplinary integration, articulating knowledge from different areas to

address contemporary challenges holistically. The argumentative development constituted the fourth phase, where arguments based on the revised theory were constructed to defend the need for an integrated approach to ethics and law in sustainability.

THEORETICAL DISCUSSION

Fundamentals of ethics, bioethics and ecoethics from the perspective of law

Deepening the discussion on the concepts of ethics, bioethics and ecoethics from the perspective of Law and Legal Sciences, it is essential to recognize how these fields intertwine and influence each other, particularly in the current era, where environmental and sustainability issues have become pressing.

Morality, understood as the set of values and principles about right and wrong that are culturally established and internalized by individuals, serves as the basis for ethics. This, in turn, is the systematization of these values into a body of knowledge and practices that guide human behavior in society. Ethics, therefore, acts as a collective guide to conduct, reflecting the shared beliefs of a community or society.

Law, then, is the materialization of these ethical principles in a set of norms and laws that seek to regulate the actions of individuals and institutions, aiming at social order, justice and the common good. In this sense, law not only codifies a society's ethical values, but also plays a crucial role in resolving conflicts, protecting fundamental rights, and promoting equity and sustainability.

Van Rensselaer Potter, when introducing the concept of bioethics in his work "Bioethics: Bridge to the Future" (POTTER, 1971), highlighted the importance of an ethics that encompasses both biological issues and human values, anticipating the ethical challenges imposed by scientific and technological advances. Bioethics, therefore, seeks a deep reflection on the moral implications of life and health sciences, considering patients' rights, issues of consent, justice in the distribution of health resources, among other critical topics.

Ecoethics, as an extension of bioethics that focuses specifically on environmental issues, emphasizes ethical responsibility towards the natural environment and non-human beings. This discipline highlights the need for an ethical approach that recognizes the interconnection between human beings and the environment, promoting sustainable practices and respect for biodiversity. Ecoethics thus challenges traditional anthropocentrism, defending a more inclusive and ecocentric ethics.

In the legal field, the importance of bioethics and ecoethics is manifested in the development of legislation and public policies that aim to protect biodiversity, regulate the use of biotechnology, ensure environmental justice, and promote sustainable development. Notable examples include the Convention on Biological Diversity (1992) and the Cartagena Protocol on Biosafety (2000), which establish international standards for the conservation of biodiversity and the safe use of biological technologies.

In this way, dialogue between ethics, bioethics, ecoethics and law is fundamental to addressing complex contemporary challenges, requiring an integration of knowledge and multidisciplinary cooperation to build fairer, more sustainable, and respectful societies for all forms of life.

Law and sustainability assessment

Exploring the concept of sustainability and its dimensions from the perspective of Law and Legal Sciences, we observe that the concern with sustainable development acquires fundamental relevance in the international and national legal sphere. Awareness about the limits to growth, initially driven by the Club of Rome with the publication of the report "The Limits to Growth" in 1972, catalyzed global debates that led to the inclusion of sustainability considerations in political and legal agendas.

The United Nations Conference on the Human Environment, held in Stockholm in 1972, was a landmark that laid the foundation for a global understanding of the need to harmonize economic and technological progress with environmental preservation. Following this line, the United Nations Conference on Environment and Development, also known as Eco-92 or Rio-92, represented another decisive moment by introducing the concept of sustainable development, as outlined in fundamental documents such as Agenda 21.

Fritjof Capra, standing out for his holistic vision, points to a multidimensional crisis caused, in part, by technological innovations and the persistence of a development model focused solely on economic growth. According to Capra (2006), this crisis manifests itself in several dimensions of human and planetary life, requiring a response that integrates environmental, social, economic, technological, political, intellectual, moral, and spiritual considerations.

In the field of Law and Legal Sciences, sustainability is addressed through growing environmental legislation, public policies and the formulation of legal principles that seek to regulate the impact of human activities on the environment. The evolution of environmental law, both internationally and nationally, reflects the recognition of the interdependence between the health of the planet and the well-being of humanity, culminating in the adoption of international treaties such as the United Nations Framework Convention on Climate Change (1992) and the Paris Agreement (2015).

Thus, the assessment of sustainability, incorporating its multiple dimensions, becomes a vital instrument for Law, guiding the development of norms and policies that promote truly sustainable development. This multidimensional legal approach not only reflects a commitment to environmental protection, but also to social justice, economic equity, and intergenerational responsibility.

The principle of responsibility and the Law

The principle of responsibility in the context of technological and scientific development continually challenges the boundaries of ethics, demanding a conscious integration between innovation and sustainability. As Alencastro et al. (2004) highlight, the often-conflicting relationship between technological advancement and social and environmental well-being highlights the urgency of a more refined ethical approach. This challenge is particularly evident in the fields of biotechnology, nuclear energy, and other innovations, where the potential for unpredictable negative consequences is significant.

The complexity of these challenges was recognized by thinkers such as Hans Jonas, who, in his work

"The Imperative of Responsibility" (JONAS, 1984), argued that traditional ethics is not equipped to deal with the nuances of contemporary technological issues. Jonas emphasized the need for a new ethics that considers the long-term implications of human actions, a vision that resonates deeply with the principles of ecoethics and intergenerational responsibility.

Law and Legal Sciences play a significant role in translating these ethical imperatives into concrete actions, through the development of regulations that seek to balance the benefits of technological innovation with the protection of the environment and society. For example, biosafety legislation and international conventions on climate change exemplify how law can serve as a mediator between science, technology, and ethics.

In this context, legal responsibility emerges as an essential complement to ethical responsibility, establishing a legal framework that ensures that technological development is aligned with the values of sustainability and social justice. The adoption of the Precautionary Principle, for example, reflects the need for caution in the management of environmental and technological risks, promoting a responsible and preventive approach to scientific uncertainty.

Levinas's (1988) view of responsibility as a foundation for ethical and legal freedom adds a layer of depth to this discussion, suggesting that true freedom emerges from responsibility to others, including future generations and the natural environment. This perspective is crucial for building sustainable societies, where recognition of interdependence and responsible action are essential.

FINAL CONSIDERATIONS

It becomes clear that technological advancement, especially in critical areas such as nuclear energy and biotechnology, often benefits specific corporate and political interests, sometimes to the detriment of ethics, public health, and environmental sustainability. The philosophy of responsibility, as articulated by thinkers such as Hans Jonas and Emmanuel Levinas, highlights the importance of a deep ethical awareness and a commitment to justice in the formulation and implementation of public policies. These policies must prioritize the health, well-being, and quality of life of the population, ensuring that technological advances serve the public interest and do not threaten the future for reasons of greed or power.

A truly sustainable society is one that, consciously and in a participatory manner, balances the needs and aspirations of its people in all dimensions of human existence. To achieve such sustainability, it is crucial to adopt public policies based on reliable indicators that allow for an accurate assessment of sustainability in its various aspects. This approach allows public managers and society to make informed decisions that promote sustainable development.

Therefore, sustainability assessment emerges as a vital instrument, rooted in the principle of eco-ethical responsibility, to guide the construction of future societies that are not only technically advanced, but also ethically grounded, ecologically balanced, and socially just. This commitment to responsibility and sustainability is essential to ensure that technological and scientific advances are used in a way that benefits humanity, ensuring a viable and flourishing future for present and future generations.

REFERENCES

ALENCASTRO, M. S. C.; HEEMANN, A.. Uma ética para a civilização tecnológica. IN: ENCONTRO DA ASSOCIAÇÃO NACIONAL DE PÓS-GRADUAÇÃO E PESQUISA EM AMBIENTE E SOCIEDADE, 2., Indaiatuba, 2004. **Anais**. Belém: ANPPAS, 2004.

CAPRA, F.. **O ponto de mutação**. São Paulo: Cultrix, 2006.

JONAS, H.. **The imperative of responsibility**: in search of an ethics for the technological age. Chicago: University of Chicago Press, 1984.

KINNE, O.. **Eco-ethics further developed**. Oldendorf: Eco-Ethics International Union, 2001.

KLEIN, N.. **This changes everything**: capitalism vs. the climate. New York: Simon & Schuster, 2014.

LEVINAS, E.. **Totalidade e Infinito**. Lisboa: Edições 70, 1988.

ONU. **Convenção-Quadro das Nações Unidas sobre Mudança do Clima, 1992**. ONU: Nova York, 1992.

ONU. **Convenção sobre Diversidade Biológica**. Brasília: ONU, 1992.

ONU. **Convenção-Quadro sobre Mudanças no Clima. Acordo de Paris**. Paris: ONU, 2015.

ONU. **Protocolo de Cartagena sobre Biossegurança, 2000**. Cartagena: ONU, 2000.

POTTER, V. R.. **Bioethics**: bridge to the future. Englewood Cliffs: Prentice-Hall, 1971.

RAWORTH, K.. **Doughnut economics**: seven ways to think like a 21st-century economist. London: Random House Business Books, 2017.

SACHS, J. D.. **The age of sustainable development**. New York: Columbia University Press, 2015.

STIGLITZ, J. E.; SEN, A.; FITOUSSI, J.-P.. **Mismeasuring our lives**: why gdp doesn't add up. New York: The New Press, 2010.

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