The Penal Protection of the Environment in Brazil and Costa Rica

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Abstract

The text deals with the criminal protection of the environment in Brazil and in Costa Rica and brings considerations about this protection from the command of ample environmental protection provided for Constitution of two countries. The considerations are initiated by the Brazilian legislation that, in the infra constitutional scope, concentrates criminal types in only one diploma. Already in Costa Rica, one sees a pulverization of the laws that contain penal types. The research is theoretical-bibliographical and logical-deductive reasoning. In conclusion, it should be noted that, while Brazil and Costa Rica lack legislative perfection and modernization, they also attribute this function to criminal law.

Keywords: Environment, Guardianship, Criminal law; Brazil, Costa Rica.

Introduction

The following lines present an exposition on the treatment of environmental protection in Brazil and Costa Rica in favor of compliance with constitutional provisions that, in both countries, provide for the broader protection of the ecologically balanced environment.

It is true that, in the case of criminal tutelage, the body of the text and its objectives, the nuances of the applicability of a classic, secular and individualistic criminal dogma, to the protection of a legal asset of a diffuse, met individual nature. The proposal, however, is limited, in the exhibition, although linked to the environment in a more particular way, than Brazil and Costa Rica offer instruments for the protection of the environment.

This being the central object of the text, it is explained that the peculiarity in the treatment of the question in both countries would not accredit a comparative exposition of the Brazilian and Costa Rican reality. Therefore, an analytical approach was adopted through the theoretical-bibliographic methodology in which the main legislative instruments existing in Brazil and Costa Rica and the peculiarities that existed in the literature were presented through book and internet doctrine research. Concerning the protection of the environment through criminal law.

The rationale employed was the logical-deductive, through which the importance of the environment as a legal right to be protected by criminal law in both countries, including as a constitutional imperative, was used as a thesis. As it is antithesis that, although the need for guardianship is not ignored, much still has to be done in terms of improvement and modernization of the laws and, as a synthesis, the promising realization that both countries have been fulfilling the purpose of guardianship the environment or at least have demonstrated this goodwill.

The text sets out, firstly, the criminal protection of the environment in Brazil and a sequel to the analysis of the subject in Costa Rica and has, by conclusion, the finding that, in response to the problem-item on the existence of penal predictions that contemplate the good Environmental protection, the constitutional command of environmental protection in both countries
has been developed in the criminal sphere, although by practices that are requiring several improvements to achieve the purpose outlined in the Brazilian Constitutions of 1988 and Costa Rican of 1949.

The justification for the research is related to the necessary international correspondence that must exist in search of the protection of the environment. If the text is exposed in a Working Group in which the protection of the environment is the evidence, the occasion is very timely so that the Brazilian and Costa Rican reality, mainly because Costa Rica is known for its current practices of environmental protection, especially in the case of the text, in criminal sphere.

**Penal Protection of the Environment in Brazil**

The criminal protection of the environment in Brazil, even though it was already consecrated, is certain that in a timid manner, in Law 4.771 / 65, which provided in article 26, composed of 15 points, criminal offenses "related to environmental degradation, with penalties Ranged from 3 (three) months to 1 (one) year of simple imprisonment or a fine of 1 (one) to 100 (one hundred) minimum wages, or the two penalties cumulatively "(RIBEIRO, SILVA, 2014, 44). Notorious strength from the constitutional text of 1988. This is because Article 225 of the Charter, which provides for the protection of the environment in its own external chapter, textually:

Everyone has the right to an ecologically balanced environment, a common good used by the people and essential to a healthy quality of life, imposing on the Government and the community the duty to defend and preserve it for present and future generations.

And, as far as criminal law is concerned, Article 225 provides in its third paragraph: "Conduct and activities considered harmful to the environment shall subject natural or legal offenders to criminal and administrative sanctions, irrespective of Obligation to make good the damage caused ".

It can be seen, therefore, that the Constitution of the Republic has given importance to the protection of the environment, consecrating it widely, including in the criminal aspect, which has greatly contributed to the criminal law, whether by infraconstitutional legislative initiative or even by doctrinal practices and in Brazil, to dedicate itself to the protection of the environment.

This is not a simple task, however, because the environment, a juridical substance of a meta-individual nature, was not on the agenda of the consecrated and secular criminal dogmatics built over centuries and centuries.

It is true, however, that the constitutional command, since it constituted the national legal order, was cogent and, therefore, it demanded practices of effective protection of the environment, which, in the criminal sphere, was object of infraconstitutional initiative that culminated, in 1998, with the edition of Law 9605/98, known as the Law of Environmental Crimes.

It is curious to note that, although it is called the Law of Environmental Crimes, the raison d’être of the Law, as revealed in Exhibit Motives no. 42, dated April 22, 1991, from the work of the then National Secretary for the Environment, which provided for the optimization of the activities of IBAMA - Brazilian Institute of Environment and Renewable Natural Resources, which, at the time of the message, was linked to National Secretariat for the Environment was not initially constitutional regulation regarding environmental protection, perhaps because the constitutional text, still very young, lacked more maturation and reflections in the infraconstitutional scope. I had the message:

[...] the legal document which I am proposing to you, provides for the creation and application of a penalty, as well as the fixing of fines, in accordance with Law No. 4.771 of September 5, 1965, with the new Law No. 7803, of July 15, 1989 and Law No. 5,197, of January 3, 1967, and is based on
instruments that will systematize the penalties and unify amounts of fines to be imposed on offenders of flora and fauna. These values, until then, were fixed in multiple internal normative acts, such as ordinances and normative instructions, which was causing legal questioning, which contributed to make the collection process time consuming, in the face of repeated defense and Brought by the parties concerned. (DIARY OF THE NATIONAL CONGRESS, online).

The proposal, however, was widely discussed and debated within the National Congress, and it should be noted that, in the body of the reasons for vetoing the provisions of Article 1 of Law 9605/98, the President of the Republic, In 1998, when the text was sanctioned, that these discussions and discussions culminated "with the extension of its initial purpose, in order to consolidate legislation on the environment, with regard to criminal matters" (Official diary of the Union, online).

Therefore, it was the debates within the Congress that led to the consolidation of legislation regarding the criminal aspects of environmental protection and not the initial purpose that gave rise to the Project of initiative of the Executive Power.

It is certain, however, that although in Brazil there is currently a law intended, if not exclusively, to protect the environment in Brazil at least, since it has consecrated 41 criminal types that are incriminating in defense of fauna and flora, cultural heritage and Environmental Administration, the Law did not exhaust the list of conducts now punished as harmful to the Environment.

As an example, it is mentioned, although still in force, the crime of diffusion of disease or plague, contained in art. 259 of the Penal Code; The prohibition of fishing for cetaceans (whales, dolphins, etc.) in Brazilian jurisdictional waters, in accordance with art. 2 of Law 7,643 of December 18, 1987, or the contravention provided for in letter "m" of art. 26 of Law 4.771/65 (releasing animals or not taking precautions so that the animal of his property does not penetrate forests under special regime).

It should be noted, therefore, that Brazil today has legislation that sought to bring together, in a single body, but without the pretension of exhausting the tutelage mechanisms, the criminal types of environmental protection, thus doing it in an attitude worthy of the highest encumbrances Not only because it reveals the concern of the legislature with the protection of the environment but also to systematize the criminal sanctions of the environment so as to concentrate the penal types in a single law for security and good information.

It is true that Law 9605/98 does not deal with the perfect and unassailable work of the legislature. This is because, with the attenuation of dealing with the environment of juridical legality diffuse and extraordinarily complex because there are several environments to be protected, the legislative technique employed was not the best, because in several passages of the law what is observed is the equation, with similar penalties and in the same criminal types, of conduct having different degrees of reprobability, since they reveal very different degrees of injury to the juridical protected legal good.

In this sense, it is highlighted, in the so-called multiple-action criminal types or varied content, what is provided by articles 29, 38, 38-A, 50, 62 of Law 9605/98, since

In article 29, Law 9605/98 criminalizes, granting a sentence of detention of six months to a year and a fine for those who kill, persecute, hunt, catch or use specimens of wild fauna in disobedience to the precepts of the administrative authority. It is thus observed that the conduct of killing the animal is punished in the same way as pursuing or catching the animal, which, we agree, is absolutely disproportionate. The same criticism can be directed to the legislator in relation to the crimes foreseen in articles 38, 38-A, 50 and 62 of Law 9605/98, since in the same they are the acts of destroying and damaging, although the first means the act of annihilation and The
second represents partial damage to what one wants to protect. (RIBEIRO, SILVA, 2014, p.59).

On the other hand, it is observed in the body of the Law referred to article 40-A, paragraph 3, which provides for punishment for wrongful conduct without describing, for lack of caput, which would be intentional, and, in article 50-A, § 2, the absence of a forecast of the maximum amount of deprivation of liberty, flagrantly offending the principles of strict legality and legal certainty.

Furthermore, Law 9605/98 is classified as highly criminalizing because it deals with issues that, in the light of administrative law, could find a more adequate venue in the extra penal sphere. This aspect did not go unnoticed to Luiz Régis Prado:

To begin with, its highly criminalizing character is based on the fact that it establishes a great number of behaviors that, strictly speaking, should not go beyond mere administrative infractions or, at most, criminal contraventions, in total dissonance with the principles of Minimal intervention and insignificance (eg articles 32, 33, III, 34, 42, 44, 29, 52, 55, 60, etc.). (Prado, 2013, p.164).

Thus, what is drawn from this scenario is that, although the concern about the criminal protection of the environment is notorious, and, in this regard, the legislator cannot be considered as an omission, it is a fact that Brazil has no more legislation. Well elaborated and capable of respecting, in the light of criminal dogmatic, costly and secular principles such as strict legality and the minimal, fragmentary and subsidiary intervention of criminal law, without, of course, prejudicing the protection of the environment.

Regarding the instruments of effective protection of the environment, in Brazil, it should be noted that, although this is not a unison agreement in doctrinal and jurisprudential terms (Reale Júnior, 2011, page 354), there was the consecration, from the very Constitution of 1988, of criminal liability of the Legal Entity, a subject that is arduous since conceptions of action, guilt and penalty for the Legal Entity, but which reveals the concern, in Brazil, of the greater protection of the environment, since known is that, because of its resources and objectives, it is the Legal Entity, the biggest enemy of the environment.

Major impulse gained the criminal responsibility of the Legal Person from a paradigmatic decision of the Federal Supreme Court, which enshrined the constitutional interpretation in favor of the effective responsibility and, even, it removed understandings, that were made dominant in the Superior Court of Justice, in the sense of That the accountability of the corporate person only materialized with the concomitant accountability of its leaders1.

The Brazilian practices have contributed to the belief that the constitutional commitment to safeguard the environment in the criminal sphere has been practiced, with the normal exceptions, to the difficulties that the Matter, per se, already

1Here is the decision sheet: Extraordinary remedy. penal law. environmental crime. penal responsibility of the legal person. conditioning of the criminal action to the identification and concomitant persecution of the physical person who does not meet amparo in the constitution of the republic. 1. The art. 225, § 3, of the Federal Constitution does not condition the criminal liability of the legal entity for environmental crimes to the simultaneous criminal prosecution of the individual in a responsible thesis within the company. The constitutional norm does not impose the necessary double imputation. 2. Today's complex corporate organizations are characterized by the decentralization and distribution of duties and responsibilities, and the difficulties in attributing the wrongful act to a specific person are inherent in this reality. 3. Condition the application of art. 225, § 3, of the Political Charter to a specific imputation also the individual implies undue restriction of the constitutional norm, expresses the intention of the constituent not only to extend the scope of criminal sanctions, but also to avoid impunity for environmental crimes against Immense difficulties of individualization of those responsible internally to the corporations, besides strengthening the protection of the environmental legal good. 4. The identification of the internal sectors and agents of the company that determine the production of the wrongful act is relevant and should be sought in the specific case as a way of clarifying whether these individuals or bodies acted or deliberated in the regular exercise of their internal attributions to society, and still To verify if the action occurred in the interest or benefit of the collective entity. Such clarification, relevant for purposes of imputation of a particular offense to the legal entity, is not confused, however, with subordinating the responsibility of the legal entity to joint and cumulative accountability of the individuals involved. In rare occasions, the internal responsibilities for the fact will be diluted or partitioned in such a way that they will not allow the attribution of individual criminal responsibility. 5. Extraordinary appeal partially known and, in the known part, provided. (STF, online).
imposes before the experience of a secular dogmatic of individualistic tradition and that now must turn its eyes to the tutelage of the diffuse.

The Criminal Protection of the Environment in Costa Rica

Given that Costa Rica is a country that, internationally, is renowned for several environmental protection practices, the exposition of criminal matters related to environmental protection in the country will be preceded by a contextualization of the reasons why the environment is especially consecrated in Costa Rican government public policies.

Contextual Aspects of Environmental Protection in Costa Rica

In spite of its small geographic dimensions, Costa Rica is provided by a rich biodiversity, which, over the years, has been the object of government concern for the protection of this natural patrimony and, consequently, the environment.

At the international level, Costa Rica is known as one of the exponents in the conservation and sustainable use of biodiversity, which has occupied the national agenda with several actions and policies for the protection of the environment.

Thus, in 2015, the Costa Rican government launched a document outlining the guidelines for the national biodiversity policy in the fifteen years following its publication, that is, between the years 2015 and 2030. The document contains the bases of governmental action And was systematized through the process of participation of public and private sectors, as well as civil society, under the aegis of the National Commission for the Management of Biodiversity - CONAGEBIO - and the National System of Conservation Areas - SINAC - according to provisions of the Ministry Of the Environment and Energy - MINAE.

The government's concern with environmental protection and the biodiversity protection policy does not happen by chance, after all, as the very document that consolidates the National Biodiversity Policy, the country is important internationally in terms of its biodiversity because in a relatively small territory it harbors a great wealth of species, approximately 3.6% of the biodiversity expected for the planet (between 13 and 14 million species). The country has an approximate record of 94,753 known species, or about 5% of the world's known biodiversity (about two million known species in 2005), a list that continues to increase as the process continues.

Of research and identification in less studied sites and groups. From the point of view of genetic diversity, the country is important because of the genetic variability of wild relatives of domesticated varieties of crops of global importance for agriculture and food, as in the case of potato and beans. This wealth also manifests itself at the ecosystem level, whose ecosystem services support a series of activities with high added value that benefit people, economic, cultural (social, spiritual) activities and increase human development, as described below (SINAC, 2014a). (National Biodiversity Policy, p. 15).

Regarding the general state of ecosystems, the natural continental coverage of Costa Rica is estimated at the proportion of 55.6% of the whole national territory, although the spatial distribution is very heterogeneous and fragmented, as in almost all Latin American countries. According to data from the document that consolidates the National Biodiversity Policy, the following is the natural distribution in Costa Rican territory:

- Forested forest coverage is maintained in 2010 as 52.3% (FONAFIFO, 2012) to 52.4% 2013 (SINACb, 2014 in SINAC, 2014a).
- The natural forest recovers coverage: in 1992 they reported 1,293,670 ha and in 2013, 1,582,000 ha (SINAC, 2014b in SINAC, 2014a).
- Secondary forest recovers coverage since in 1992 reported 697,000 ha and in 2013 936,000 ha (SINAC, 2014b in SINAC, 2014a).
Dry forest reveals high alteration but recovery in coverage during the last decades-decades (SINAC, 2014b in SINAC, 2014a). However, they are highly vulnerable to droughts and fires.

(Hernández, G. et al., 2009 in CONAGEBIO et.al., 2013 and SINAC, 2014a).

Forests in cold and cool lands, and cloud forests present low to moderate alteration but a high percentage is unprotected (See Conservation Areas in CONAGEBIO et.al., 2013). (NATIONAL BIODIVERSITY POLICY, p. 17).

It is not without reason, therefore, that new and other policies are necessary for the maximum protection of the environment, that Costa Rica is known as "green democracy".

However, while endowed with known environmental practices that consecrate Costa Rica internationally as a "Green Country", Chacón (2013) emphasizes that environmental law in Costa Rica is recent, since recent was even the 1994 modification in article 50 of the Costa Rican Constitution of 1949, Constitutional Reform 7412, which enshrines the right of people to a healthy environment and ecologically balanced, with the duty of the State to preserve this right, which should be subject to legal liability and sanctions in case of violation. Thus, of course, the protection of the environment by criminal law is also recent and, unlike Brazil, is not stamped in a specific law that contains, in a single body, the protection of fauna and flora, urban planning, cultural heritage And Environmental Management, which will be the object of the following considerations.

Costa Rican Environmental Criminal Law

Faced with the absence of a single law dedicated to the criminal protection of the environment, Costa Rica, as usual should be dealt with in criminal matters, reserves to criminal law only what, in fact, should not be subject to exclusive protection of administrative law. However, it is not clear from the 1970 Penal Code that this is a fact that can easily be attributed to the already mentioned incipience of the topic in Costa Rica, of predicting offenses that, with more adequate sanctions, are up to the line of good Legal environment.

Thus, it is only in the scope of criminal offenses and even in a title dedicated to Public Security, that the environment was and is contemplated as an object of protection, yet with only one article, 399, with the wording that was Attributed by
Laws 8250 and 8272, both of May 2, 2002:

SECTION VI

Environment

Article 399.-A fine shall be reprimanded with a penalty of ten to two hundred days:

Violation of burning regulations

- Anyone who violates regulations regarding the cutting or burning of forests, trees, weeds, stubble or other products of the land, when there is no other express penalty.

Obstruction of ditches or channels

- Who will throw in ditches or channels objects that obstruct the course of water.

Opening or closing of pipe wrenches

- Any person who improperly opens or closes plumbing keys, or in any other form not expressly penalized, contravenes existing water regulations.

- Breach of hunting and fishing regulations: Anyone who, in any way, violates laws or regulations on hunting and fishing, provided that the violation is not punishable expressly in another legal provision. (As amended by Article 2 of Law No. 8250 of May 2, 2002) [...] (Thus amended the numbering of this article by number 2 of Law No. 8272 of May 2, 2002. Which transferred it from the current 397 to 399).

This did not go unnoticed by the Panamanian author Julia E. Sáenz (2014) who, after collating the Costa Rican environmental criminal law with the Panamanian, emphasized: "Costa Rican criminal legislation handles these figures as contraventions, although this is a way of classifying the species of crimes, but it is less serious" (SÁNZ, 2014, p.31).

Despite the unique nature of the codified forecast that, in its own section, safeguards the environment, Costa Rica presents a marked pulverization of laws that protect natural resources, among which the following stand out:

- Law 7317, of 1992, entitled Law on the Conservation of Wildlife, and which, in articles 88 to 104, provides for crimes against flora and fauna, even with more tenuous sentences, usually consisting of the payment of Fines which, if not paid, can be converted into prison, and criminal offenses, also for the benefit of flora and fauna, in Articles 105 to 121;

- Law 7575/96 - entitled Forest Law, which provides, with custodial sentences of up to three years, sanctions more in keeping with the protected environment; 2

2 ARTICLE 58. Penalties

Prison shall be imposed from three months to three years to whom:
A) Invades a conservation or protection area, whatever its category of management, or other areas of forests or lands subject to the forest regime, whatever the area occupied; Regardless of whether they are private land Of the State or other organisms of the Public Administration or of lands of private dominion. The authors or participants in the act shall not be entitled to any compensation for any construction or work that they have done in the invaded lands.
B) Use forest resources in areas of natural heritage of the State and in the areas of protection for purposes other than those established in this law.
C) Do not respect the declared forest closures. The timber and other forest products, as well as the machinery, means of transport, equipment and animals used for the commission of the event, once a final judgment has been handed down, shall be placed at the disposal of the Forest Administration Of the State, so that it may dispose of them in the manner it considers convenient.
Representation is granted to the Office of the Attorney General of the Republic, in order to establish the civil remedy against the ecological damage caused to the natural heritage of the State. For these purposes, officials of the State Forest Administration may act as evaluating experts.
ARTICLE 59. Forest fire with malice

Prison of one to three years will be imposed who, with fraud, causes a forest fire.

ARTICLE 60. Fire fire with fault

Three months to two years' imprisonment shall be imposed on anyone who, by mistake, causes a forest fire.

ARTICLE 61. Prison from one month to three years

Prison shall be imposed from one month to three years to whom:
A) Use one or more forest products on private property, without the permission of the State Forestry Administration, or who, even if it has the permit, does not conform to what is authorized.
B) Acquire or process forest products without complying with the requirements established in this law.
C) To carry out activities that imply change in the use of the land, contrary to the stipulated in article 19 of this law.
In the previous cases, the products will be confiscated and placed at the order of the competent judicial authority.
D) Subtract forest products from private property or the State or transport forest products obtained in the same way.

ARTICLE 62. Prison of one to three years

A prisoner of one to three years shall be imposed on anyone who builds roads or trails on forest land or employs equipment or machinery for cutting, harvesting and transport, contrary to the provisions of the management plan approved by the State Forestry Administration.
In such cases, the equipment used will be confiscated and placed under the order of the competent judicial authority.

ARTICLE 63. Prison from one month to one year

Prison shall be imposed from one month to one year to whom:
A) contravene the provisions of article 96 of this law.
• Law 276/42, entitled Water Law, and which provides, in articles 162 to 166, crimes for the protection of water resources. Although it is the Law dated 1942, it was subsequently modified, most dense, by Law 7593 of August 9, 1996, although, in spite of the content of the updates, it was not unharmed by the criticisms of Bolaños and Sandí (2011): "Given the age of the law in question, fines have become laughable and contraventions have become disused in practice" (BOLAÑOS, SANDÍ, 2011, p.85). And, on the reality of the environmental penal legislation currently in force in Costa Rica regarding the protection of water resources:

The wording of the articles [...] shows a lack of correlation with the current Costa Rican reality, not only because of the insignificance of the amount established in the fines, but also because of a lack of protection of the water resource itself. The lack of knowledge about the environment, such as those that are now available and the difference in environmental values, make it almost ilusory to apply such violations for faults that can be committed by violators today. (Bolaños; Sandí, 2011, p. 86-87).

It is also important to point out that, unlike Brazil, Costa Rica does not foresee, even in the infraconstitutional sphere, the criminal liability of the Legal Entity, Which is strange in the face of the outstanding practices of environmental protection currently verified in the country, even because the Legal Entity, whether by the most important resources it possesses, or by the need to achieve the profit and the purposes envisaged in its constitutive acts, is the one that, as a rule, damages the environment more.

Regarding this matter, the Costa Rican authors emphasized, already in 2011, that they recommended the institutionalization of this criminal responsibility in their country:

The legal figure of the legal person is used on numerous occasions as a screen for the commission of criminal acts of various kinds ... The criminal sanction of legal persons is a subject of paramount importance in all areas of criminal law, Not only in the environmental field but also, for example, in the criminal law of companies. (Bolaños; Sandí, 2011, p.293).

Although there is also a need in Costa Rica for the adaptation and updating of criminal laws in favor of greater and better environmental protection, it is true, on the other hand, that the government and institutions show that they are effectively engaged in Process of environmental protection. Proof of this is the recent and promising creation of a National Commission, truly worthy of encumments, and that proposes, as highlighted in the journalistic report below, to promote uniform and consolidated knowledge of environmental criminal matters in and of the Country:

**Costa Rica Pleads for Environmental Protection**

The declarations were made by the head of state in the framework of the creation of a commission in which the different state institutions participate in order to promote uniform and consolidated knowledge of the country’s environmental criminal matters

Costa Rica’s President Luis Guillermo Solis Rivera valued the coordination between the Ministry of Public Security, the Ministry of Environment and Energy, the Public Prosecutor’s Office and the Judicial Investigation Agency, which together take steps to guarantee the right to a healthy environment And ecologically balanced in the country.

"We continue with these national efforts that allow us to reach important agreements for Costa Rica. This step that we take today contributes to highlight the importance of Environmental Security and also recognizes that a safer country is one that allows the access and sustainable use of its natural resources, with productive and healthy ecosystems to improve the quality of life of Its population, "he said.

B) Poison or annulate one or more trees, without permission previously issued by the State Forestry Administration. In these cases, the products will be confiscated and placed on the order of the competent judicial authority.
The declarations were made by the head of state in the framework of the creation of a commission in which the different state institutions participate, in order to promote uniformed and consolidated knowledge of the country's environmental criminal matters.

The National Commission for Environmental Security will work to promote coordination among national and international entities to strengthen the application and compliance with environmental regulations in Costa Rican law.

"This is another great step that we take in this administration for the protection of biodiversity that we have in our country, with this Commission, Costa Rica can be sure that we will punish every crime that is committed against our natural wealth, and we will not be shaken by the hand to send to prison if necessary, once the crime is proven, "said Minister of Environment and Energy Edgar Gutiérrez.

In this vein, the President of the Supreme Court of Justice, Zarela Villanueva, said that combating environmental crime is one of the priorities of each State, since its neglect leads to a series of economic, social, environmental, biodiversity and Security, among other factors.

"The fight against environmental crime is a priority for the States, because of the negative impact they cause, it is necessary to continue making permanent efforts to achieve greater efficiency in the reporting, investigation and prosecution of these crimes, as well as to focus efforts towards The sensitization of the population ", I affirm. (Italics in the original). (ICN Daily, 2016, online). (Emphasis in original).

Final Considerations

Brazil and Costa Rica bring in common, in the body of their constitutions, the need to protect the environment ecologically balanced, which is enforceable not only to civil society but also, and especially to the State itself.

Imbued with the need to protect the environment, both Brazil and Costa Rica have protective environmental legislation, each in its own way, and the fact that while Brazil has a specific law on environmental crimes, in Costa Rica the matter is In the poorest prediction of the Penal Code, or in the many different special laws that exist there.

Although it is clearly observed that, in the legislative sphere, even because it predicts criminal liability of the Legal Entity, Brazil is at a more advanced stage, it is certain that in public governmental policies, Costa Rica has demonstrated a greater and better engagement as To the theme, which has earned it, in the international scope, the reputation of "green democracy", even though it presents high levels of environmental preservation and a very conservative project of preservation of biodiversity protection by joint actions of the government and organized civil society.

The question, asked in the introduction to the text, on whether the environment has been the subject of criminal sanctions in both countries, has, in response, concluded that environmental protection in the criminal sphere, at least in the Concerning the role of the Administration State, has been worthy of encouragement, although the need for legislative upgrading and modernization is clear.

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