

Business ethics: eco-auditing and ecocentric business management - a literature review

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ABSTRACT This article undertakes to study eco-auditing. We have made a comparison of the different management models – i.e. classical, neoclassical and neoinstitucional business management – thereby seeking to redefine the social function of contemporary companies. Thus, an introductory chapter is presented, which is followed by an analysis of management models and a conceptualization of global environmental risks, as opposed to the specificities of SIDS. The next part presents an economic and financial snapshot of SIDS (both within the context of a social economy of the Plan and as a social market economy). A focus is made on the administrative-business practice established in the various domestic legal systems which regulate the ecological issue. Finally, conclusions are presented wherein the author calls for policy improvement measures in matters of working conditions, in relation to human rights, energy efficiency and recovery of nature. A review and update of the relevant literature is conducted, so as to foster a solution for ethical dilemmas in companies.

KEYWORDS product life cycle analysis, eco-auditing, eco-development, ecocentric management, traditional management.

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La ética empresarial: ecoauditoría y gestión ecocéntrica de empresas – una revisión de la literatura

RESUMEN Se propone en el presente artículo el estudio de la ecoauditoría. Se contraponen aquí los diferentes modelos gerenciales: el clásico, el neoclásico y el neoinstitucional de una empresa, tratando de redefinir la función social de las empresas contemporáneas. Así, se presenta luego de la introducción el análisis de los modelos gerenciales, seguidos de la conceptualización de los riesgos ambientales globales, en comparación con las especificidades de los PEID. La siguiente parte presenta una radiografía económica y financiera de PEID (tanto en el contexto de una economía social del Plan y como una economía social de mercado). Se presenta un enfoque en la praxis administrativa-comercial establecida en los distintos sistemas jurídicos nacionales que regulan el tema ecológico. Por último se presentan las conclusiones, mediante las cuales el autor propende por un mejoramiento de las políticas en materia de condiciones de trabajo, en relación con los derechos humanos, la eficiencia energética y la recuperación de la naturaleza. Se lleva a cabo una revisión y actualización de la literatura, a fin de fomentar una la solución de dilemas éticos en las empresas.

PALABRAS CLAVE análisis del ciclo de vida del producto, ecoauditoría, desarrollo ecológico, gestión ecocéntrica, gestión tradicional.

Ética nos negócios: ecoauditoria e gestão ecocêntrica de empresas – uma revisão de literatura

RESUMO Neste artigo propõe-se estudar a ecoauditoria. Nele, são contrapostos os diferentes modelos gerenciais: clássico, neoclássico e neoinstitucional da empresa, procurando redefinir a função social da empresa contemporânea. Portanto, após introdução, segue-se análise dos modelos gerenciais, seguida da conceitualização dos riscos ambientais globais, em contraponto com as especificidades dos PEID; na epígrafe seguinte, faz-se radiografia da ordem econômico-financeira nos PEID, (tanto em contextos de uma economia social do Plano como de uma economia social de mercado), com enfoque na *práxis* administrativa-empresarial instituída nos diferentes ordenamentos jurídicos internos, que regulam a questão ecológica. Finalmente apresentam-se conclusões, onde o autor exige medidas de políticas de melhoria das condições laborais, atinentes a: direitos humanos, eficiência energética e recuperação da natureza. Tudo isto, através de uma revisão e atualização de literatura, com vista a propiciar a superação de dilemas éticos nos negócios.

PALAVRAS CHAVE análise de ciclo de vida do produto, ecoauditoria, ecodesenvolvimento, gestão ecocêntrica, gestão tradicional.

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Introduction

Ecocentric management usually takes us back to ethical behavior in business. Business ethics – according to Bateman & Snell (2007, p. 151) is understood as “a set of moral principles and standards which guide individual behavior in the business world”. It could be stated that ethics is seen as a system of rules governing the order of values; in this case, ethical and environmental values in the pursuit of economic benefits serves to always guide human beings, and particularly when faced with ethical dilemmas. An ethical dilemma or issue in turn presents a situation, a problem or an opportunity in which the individual must choose between several actions that should be evaluated as morally right or wrong (Bustamante, 2008). Therefore, considering that all entrepreneurial activity aims to obtain economic, socio-cultural and sports-related, philanthropic and spiritual benefits (Williams, 2009; Williams & Nadin, 2011), a reflection arises with regard to the social function of the company. For this reason, we have tried to find answers to the question posed by Milton Friedman (1971): “Does the business have a social

responsibility?” in the saga of the construction of business management models that are environmentally friendly.

In this search, we found that corporate social responsibility has oscillated between two extremes: on the one hand there is a more reduction – focused one, which limits the maximization of benefits of shareholders and configures the income, earnings and deductions to the product of the work – this is, after all, the originating source of the whole value (Smith, 1981; 1982; Friedman, 1971). On the other hand there is a more elastic extreme, which extends globally on the stakeholders concerned, the local community and the environment (Méndez-Picazo, 2005). Is the role of companies merely that of enriching their shareholders, or should it be broader? For Smith (1981, I, p. 175), the social responsibility of business is profit maximization, job creation and paying taxes (Araújo, 2001; Table 1).

The problem lies precisely in this “natural” instinct for profit maximization – based on free and open competition without deception or fraud by the disengagement of the state. However, the

TABLE 1. Classical, neoclassical and neoinstitucional company models

Classical company perspective	Neoclassical company perspective	Neoinstitucional company perspective
<p>1. The social responsibility of the company consists of: i. profit maximization; ii. job creation, and iii. payment of taxes, on the basis of free and open competition, without deception or fraud by means of disengagement of the State.</p> <p>2. For Smith, God (or nature) instilled certain instincts on men, including the “exchange”; the latter, plus the tendency to make more money and rise socially, lead workers to save, to produce what society needs and enrich the community. Men act thus “naturally”. If the government took no action on economic affairs, the “natural order” may take action.</p> <p>3. <i>The Wealth of Nations</i> (1776) marks the superiority of industry over agriculture, profit and capital gains on income, currency on the exchange and selfishness on charity.</p>	The only goal of the business is profit.	The company has multiple objectives.
	The company is the decision-making unit and its interests are a priority and are above everything else; there is no asset specificity.	The company and the stakeholders are equally important; people are different and have unique experiences.
	Passive response to market signals.	Active behavior of managers.
	No importance is given to the internal organization of the company.	The internal organization is important.
	The role of entrepreneurs within the company is ignored.	The entrepreneur’s role is important, as the entrepreneur manages, encourages and invests.
	The absence of transaction costs is assumed.	Negotiation of the exchange has a high transaction cost.
	Perfect information and infinite capacity for decision.	There is partial ignorance and limitation of information for decision - making.
	The company is in balance.	The company is engaged in a dynamic process in search of balance.
	Rational behavior is assumed.	It works under limited rationality conditions.
	The external environment is stable.	The external environment is complex and changeable.

Source: Author’s revisitacion of Díaz-Furtado, García-Cabrera & García-Soto (2014).

corporate scandals have been known to cost the job of executives, independent auditors, politicians and fiscal auditors, shareholders and employees of large firms, but also of micro, small and medium enterprises (Bateman & Snell, 2007, p. 150). For this reason, to discipline human greed, the law has to put together ethics and business to curb unmeasured appetites of profit at any cost¹. On the other hand, the “invisible hand” theory, which calls for the disengagement of the State, is said to have led to the establishment of a capital defense situation in detriment of the labor factor, i.e. defending the rich at the expense of the poor. Thus, a predominately ecocentric vision prevails today emphasizing on environmental urban development (Rueda, 2009; Campesino, 2011). This approach also focuses on the interests and welfare of the human being, thereby valuing the capital factor - but also the labor factor - and the human being must also be ecological. Now, this has required the displacement of the ethics axis from traditional management to ecocentric management (Gómez-Uranga, 2005; Ximenes, 2011). Indeed, because of the predatory action of the human being in the exploitation of resources, the natural environment has been undergoing very profound changes. This phenomenon calls for ethical responsibility – perhaps the declaration of a state of climatic emergency (Alfranca-Burriel, 2005), in order to avoid the collapse of the planet. Depletion of non - renewable resources and degradation of soils, vegetation, water and air, are occurring since human beings remove the resources needed for their survival from the natural environment (Carrasco-Monteaquedo, 2005), but human beings are acting as though those resources were infinite (Méndez-Picazo, 2005).

Therefore, to resolve this contradiction, we examined the specifics of the current regulatory institutional, normative and cognitive framework in island territories, thereby focusing on two island countries: Cuba a socialist economy plan – based country, and Cape Verde, a country which is a market – based social economy, with

free private initiative and a State under the Rule of Law in process of construction (Williams & Nadin, 2011). We aimed to determine the reasons certain companies adopt certain environmental practices, based on the precepts of economic neo-institutionalism (Scott, 1995; Lu 2002). Economic neo-institutionalism takes into account the historical, socio-cultural and political elements as factors which impact economic exchange under a transactional logic (Huang & Sternquist, 2007) and a dynamic and intentional perspective (Krueger, 2005). Under this approach, these elements have proved essential for the study and understanding of business decisions. In the specific realm of institutionalism, sociocultural factors impact the manner in which individuals make their decisions (North, 1994). Historical elements are quintessential in the configuration of a path in the processes of institutional change (North, 1990), and political factors are important for the institutional framework, in order to establish laws governing exchange and affecting transaction costs directly (North, 1990; Caballero & Kingston, 2005).

Traditional management versus ecocentric management in companies

The debate about the purpose or the social function of the company is already under way (Williams, 2009). Ecocentric management relates to ethical and environmental responsibility, wherein global warming appears as a problem which also appertains to companies. Two opposing theoretical perspectives of responsibility have prevailed – on the one hand there is *traditional management*, i.e. maximizing economic profit (Méndez-Picazo, 2005), and on the other hand there is *ecocentric management*. Both theories are supported by different philosophies, which have in turn generated different measures in terms of policymaking and goal establishment. Ecocentric management has focused on sustainable economic growth, and improved worldwide quality of life for all stakeholders in organizations (Gómez-Uranga, 2005). Sustainable growth, in turn, focuses economic growth to meet the current needs, without compromising the needs of future generations. Within this context, product life cycle should be understood as an analytical process in which all inputs and outputs – from the cradle to the grave – are known and considered

¹ Economic history abounds with examples of illicit enrichment, deception and fraud in business (see the Ponzi scheme, US Madoff's scheme etc. These events actually triggered the 2008 international economic and financial crisis, the falling sales of apartments with “subprimes”, which had adverse effects on the economy and businesses worldwide).

FIGURE 1. Pyramid of performance and corporate social responsibility



Source: Bateman & Snell (2007:162).

by the company to determine its total environmental impact (Bateman & Snell, 2007, p. 167-169). The times in which large companies thrived based on the abundance of raw material, availability of cheap energy and lack of restriction for waste disposal are long gone (Ximenes, 2011; Carrasco-Monteagudo, 2005). Many technologies developed in the past have largely contributed to the destruction of ecosystems. Companies in the industrial age followed a linear flow of extraction, production, sale, use and disposal. However, this business practice is unacceptable today. For this reason, it is necessary to change the mindset, the paradigm and business ethics. Companies in the past used to see regard environmental issues as a burden and a cost, within an opposing rationale of either helping the environment and affecting one's business, or promoting businesses in a manner which is detrimental to the environment. Nowadays, the issue is approached from an entirely different stance since companies adopt a green image to satisfy consumer demand, react to the ecological actions of competitors, meet the requirements of customers and suppliers, abide by guidelines, and create competitive advantage (Bateman & Snell, 2007). In sum, it all boils down to the adoption of a new vision whereby the conservation of the planet is regarded as an opportunity for business growth.

Corporate environmentalists believe that an ecological approach creates a potential catalyst for innovation, new market opportunities and wealth generation (Kilts, 2010), based on a logical win-win in which the company implements actions that are beneficial both for the company and the environment (Carrasco-Monteagudo, 2005; Mendez-Picazo, 2005). Below are some examples:

1. Nissan gathered a group of environmentalists, energy experts and scientists for brainstorming around the role of an environmentally responsible automotive industry. Ideas include manufacturing cars that can be attached to one another, thereby forming a sort of power-operated train for long trips, and then to detach them so they can continue to their final destination.
2. Ford and GM are currently investing in cars with zero carbon dioxide (greenhouse gas) emissions, not only as philanthropic responsibility but under competitive imperatives.

Examples abound, so that it can be inferred that the UNCED - United Nations Conference on Environment and Development held in 1992 in Rio de Janeiro, helped raise awareness of environmental issues². Even China, widely known as an environmental disaster, has adopted a greener agenda in the fight against global warming (Bateman & Snell, 2007).

It is precisely for this reason that contemporary managers embrace – within their competitive business strategy – environmental issues as a

2 The Kyoto Protocol was signed at this convention. The Kyoto Protocol is an international effort to control global warming, including a failed meeting in The Hague in November 2000. However, the Hague meeting served to raise awareness and compromise industrial groups, governments, scientists and non-governmental organizations in the search for solutions to global overheating problem (to deepen, see: Caux ethical principles, as established by international executives in Caux (Switzerland), along with Japan's business leaders, Europe and the United States (Bateman & Snell, 2007, p. 177-185).

new management paradigm which has come to be known as ecocentric management (Martin-Mateo, 2001; Martin, 2009 and Figure 1). This is done seeking to create competitive advantage, either by price point or differentiation, or by market segmentation (Navas & Guerras, 2002).

Consequently, there have been several models of management with a focus on different goals (De Sales, 2013; Dopazo, 2001), depending on the type of responsibilities (Bernstein, 2000) which can be economic – i.e. producing and delivering goods and services at prices that perpetuate the business and meet the obligations to investors; legal – i.e. complying with national, regional and international applicable laws; ethical and environmental – i.e. meeting environmental expectations not specified in laws (Ferrel & Fraedrich, 1997; Lozano, 2001; Fernández, 2008) philanthropic – i.e. activities and behaviors desired by the society and supported the company’s values (Mair & Marti, 2006; Adler, 1997) as can be seen in Table 2 below.

To overcome the latent conflict between two theoretical perspectives of management responsibility, i.e. the profit maximization theory by Smith (1981, 1982) & Friedman (1971), and the ecocentric management theory based on ethical and environmental principles (Méndez- Picazo, 2005) – we conducted a literature review based on theoretical analysis, and focusing on the exegetical - legal, historical - logical, inductive - deductive and analytic-synthetic methods, in order to help overcome ethical dilemmas in business at the risk societies in which we live.

Living in a global environmental risk society

December 12, 2015 was considered historic in Paris: 95 countries met and signed the Paris Agreement (COP-21). It was not an agreement

that was desired, but it was possible understanding. We currently live in global environmental risk companies (Martin-Mateo, 1994). In other words, this means that the prevailing socio-economic model, i.e. neoliberalism under the cover of globalization (Días-Furtado, 2015; Pimenta, 2004), promotes the generation and distribution of wealth by creating products that can cause damage, injury or dangers to people and the environment (Rubio-Ardanaz & Akizu Aizpiri, 2005-1). There are many risks and ecologically unsustainable consumption (Bateman & Snell, 2007, p. 167). Such risks, include particularly relevant anthropogenic risks, from industrial production, environmental degradation (air pollution, pollutants, global warming, depletion of the ozone layer, river water pollution (Grunwald & Monsanto, 2002) acid rain, toxic waste dumps, nuclear risks, stockpiles of obsolete weapons, industrial accidents and hazardous products), as well as inadequate corrective measures. Only in the United States, Grunwald and Monsanto (2002) counted over thirty thousand clandestine deposits of underground toxic waste. Around the world, the situation is even more severe, as is the case in China; this country has six of the world’s ten most polluted cities (Ximenes, 2011) and the waters of the five major rivers of the country are contaminated (Bateman & Snell 2007). Living in some Chinese cities causes more lung cancer than smoking two packs of cigarettes a day. China is the main emerging market for most automotive manufacturers, and pollutant emission standards – albeit stringent – are not enforced firmly (Grunwald & Monsanto, 2002).

Anyway, today we witnessed the progressive and continuous global warming, which to melting much of the ice-covered areas of the world submerge, hopelessly, cities and even entire countries, in a few years, as documented distinct and serious scientific predictions (Rueda, 2009; Campesino 2011, Carrasco-Monteagudo, 2005), by twisters, hurricanes and torrential rains that

TABLE 2. Evolution of ethical management models

THEO-CENTRIC ETHICS	ANTHROPOCENTRIC ETHICS	TRADITIONAL ETHICS	ECOCENTRIC ETHICS
Management focused on the ethical and religious normative social order (the natural and the divine). Companies in the Middle Age	Man, the superior species because of its reasoning, prioritizes economic, scientific and aesthetic interests. Companies in the Modern Age	Result-based, pragmatic and hedonistic management. Consequentialist, utilitarian ethics; cost-benefit ratio. Postmodern Companies	Hybrid management which combines economic and ecological goals; Caux-Round-Table principles. Companies in the / towards the future

Source: Author’s revisitacion of Alfranca-Buriel (2005), Carrasco-Monteagudo (2005) & Méndez-Picazo (2005).

are devastating increasing areas of the world, while other parts of the world are harmed by a severe drought and dangerous lack of water. In fact, there are two distinct factors in the inception of climate change: the first, called anthropogenic climate exchange, and the second, called natural variability of the weather, as an outcome of geospheric activity. The two factors together come to justify the phenomenon of global warming. The skeptical minority industry that supports the view that climate change is not due to human action, as the weather can change by itself, could not lay down any coherent model that explains, in full knowledge, the causes of current climate change, except "a conjecture of cosmic reasons without any scientific proof or evidence" (Martin, 2009, p. 41). According to this author, the fourth *Informe del Panel Intergubernamental del Cambio Climático (IPCC)* considers, however, and with empirical evidence, that: 1. the energy sector is the main cause of the increase in CO₂ emissions, with an increase of (145 %), 2. followed by shipping (120% Vasconcelos, 2006) and 3. industry (65%). According Ximenes (2011, p. 67), "is because we have to respect the human rights of everybody, or because we have to protect and promote human well-being that we must set limits on the way we treat the Earth's natural environment and its non-human inhabitants" otherwise, the anthropocentric environmental ethics dominant from the sixteenth century rise in contrast to the God-centered ethics of the Middle Ages and raises the status of man as responsible for their actions and their effects on nature. For this reason, is an instrumental logic, and his point of duty to the ecosystem is proportionate, particularly in Small Island Developing States (SIDS).

Environmental Specifications of SIDS

SIDS³ are the Small and Vulnerable Island Territories (Logossah & Maupertuis, 2007;

Días-Furtado, Garcia-Cabrera & García-Soto, 2013) which are located mainly in Africa, the Caribbean and the Pacific. Their economies are developing or are well included within the groups of the so-called least developed countries (LDCs) and average income countries (AICs). Hence, their level of sustainable socio-economic development depends largely on the application of the Programme of Action of Barbados (PAB, 1994) and the Mauritius Strategy (MSI, 2005), whose programs advocate special and differentiated treatment by the international community, in the logic of Aristotelian justice, that seeks for "treating the equal equally, and the unequal unequally (principle of equity)," particularly by the Bretton Woods institutions on the financing of development and in the fight against global warming, for which the major countries and economies are primarily responsible, while these areas are most heavily affected (Días-Furtado et al., 2013). Incidentally, these countries and territories are characterized by having a common denominator: their demand to the headquarters of the World Trade Organization (WTO) of a multilateral trading system that is more equitable, balanced and fair, to allow the achievement of two essential objectives, in terms of sustainability, related to the previous programs, namely: (I) The establishment of a clear link between trade and socio-economic development, based on transparency and real integration of SIDS in the sub-regional and global decision-making process (Días-Furtado, Garcia-Cabrera & García-Soto, 2013; PAB, 1994), and (II) the establishment of a global alliance against climate change to mitigate its effects, based on the creation of adaptive capacity and resilience of these territories to natural disasters and / or industrial risks (MSI, 2005).

The PAB, more particularly, was designed in Barbados in 1994, established by United Nations (UN) as per Resolution 47/189. It includes 14 blocks of specific actions that should be developed to meet the challenges faced by SIDS territories: climate changes; rising sea levels; natural and environmental disasters; waste management; the management of coastal and marine resources; freshwater resources, land and energy; management of tourism and biodiversity resources;

³ For example, Cape Verde, Barbados, Belize, Cuba, Dominica, Fiji, Guyana, Haiti, Jamaica, Papua New Guinea, St. Kitts and Nevis, Mauritius, Saint Lucia, St. Vincent and the Grenadines, Seychelles, Solomon Islands, Suriname, Trinidad and Tobago, Vanuatu, etc. Besides, due to several of their features and/or problems they face, Cyprus and Malta deserve the same consideration. Finally, the Greek,

French, Spanish and Portuguese outermost islands can also be considered, in a sense, for the cataloging of SIDS (Días-Furtado, Garcia-Cabrera & García-Soto, 2013).

institutional strengthening and administrative modernization; the development of human resources within the logic of capital, amongst others (PAB, 1994). However, a new strategy emerged in January 2005 called the Mauritius Strategy of Implementation (MSI, 2005 UN Resolution A / 57/262), which molded the Millennium Development Goals for SIDS and added five new performance areas: requirements of the Least Developed Country (LDCs), trade, sustainable production and consumption, health, and management of knowledge and culture. This is because the SIDS are open economies abroad and ecologically fragile. Therefore, the productive activity should be subject to a permanent environmental evaluation (Rinaldi, 2013), toward a green development of these territories (Philippi, 2001).

Thus, if the audit process in the scrutiny of climate change, the detection of corporate fraud, system revision, evidence gathering and/or elements that prove lack of coordination and/or environmental crime, then it must be extended towards the control of natural resources, precisely in order to raise global awareness on the high pollution rates caused by the industry (Ramadori, 2013; Rinaldi, 2013). Thus, because the SIDS are areas where the effects of predatory and irresponsible action are more particularly felt, we now proceed to study two cases of prototypes of economic systems completely separate from state organization, but which serve to provide input on how to face the global warming issue (Rueda, 2009).

Regulation of the economic and financial order and the environment in SIDS

Environmental audit case study in Cuba – Country based Social Economy Planning

In this title, the key issue is to understand and answer the question: why are states concerned with (regulation and oversight) the economic order and its environment? In order to find answers, under the view of a historical analysis of comparative constitutional law, we conducted research to understand the reason states oversee (both by administrative ways and in courts) the compliance with legal rules in the exercise

of economic activity, by operators and economic agents (Furtado, 2013). It is known that the economic (and much less the environmental) order has not always been a matter that was the subject of regulation by public authorities (De Abreu, 2010, p. 263; Antúnez, 2014).

State intervention in the economy and – consequently – state regulation of the economic, social and environmental order was a subject that was not in the design for government intervention for a long time, from the collapse of the process of the absolutist state model until the rise and the end of the modern model state of democratic, social and interventionist rights, as we know and grasp them today. Since then, countries have refrained from intervening the economy and have been solely worried with external defense, internal security and compliance with the contractual agreements they had signed. This is because the ideals of liberalism embodied in the invisible hand theory of Adam Smith have prevailed in the economic field, according to which “when individuals pursue the satisfaction of their individual interests, the indirectly and unconsciously contribute to fulfill the collective needs and so there is no need for government intervention in the regulation of the economic order” (Smith, 1981 I, p 196-198; 200-203, 228, 229 and 604, 605; 1982). Today, however, it is known that the theory of the invisible hand, advocating the disengagement of the state, leads to the creation of a class society, which defends the capital factor to the detriment of labor (Araújo, 2001).

In 1990's Cuba, upon closure of the *Comité Estatal de Finanzas y Precios*, which went on to become the *Ministerio de Finanzas y Precios*, the *Oficina Nacional de Auditoría (ONA)* was created by Law-Decree 159/1995, known as *Ley de la Auditoría*. Thus, the administrative licensing and sanctioning of violations, offenses and environmental crimes, have been held in these instruments and in Resolution 2819 of the *Comité Ejecutivo del Consejo de Ministros 1995* and Decree 228/1997. Under these circumstances, the Ministry began to have control of public audit by dictating policies to prepare the national Plan of audits and created the national registry of auditors, which has allowed the professional qualification of auditors to hold elected posts (Antúnez, 2012). However the practice of the Cuban public audit has paid more attention to the accounting systems of the ways of management, thereby leaving environmental management aside. In the

latter issue, only several audits were made about follow-up management of the entrepreneurship, more along the lines of mere compliance that in terms of environmental protection itself. This audit was free, compulsory and enforced by means of a plan.

In this country, the formal regulative institutions, namely the Constitution of the Republic (CR) seek for a state audit and, in particular, environmental protection is done with support in Chapter I of the Constitution: *Fundamentos políticos, sociales y económicos del Estado*, to distinguish four key areas, namely: : “i) la protección del medio ambiente como principio constitucional rector de la política económica y social, ii) la función pública de protección ambiental como mandato de acción para el Estado; iii) la protección ambiental como ámbito de atribuciones y competencias y iv) la protección de los recursos naturales”.

Thus, under Article 68 of the CR, guidelines are developed on how to carry out environmental audits, based on the principle of socialist democracy, wherein State agencies act in line with the principles that rank actions, subordination and accountability, so as to ensure respect, coordination and control of environmental policy measures (Antúnez, 2014). It is therefore within this context of regulative institutions that environmental audits should be conducted, as well as environmental impact assessment and the conformation of economic audit with the environmental audit (Nogueira, 2000); the latter must always depend on the approval of big economic projects, whose implementation can impact the environment. So, whenever there are clashes between economic and environmental issues (regardless of ownership of the property of the project), an evaluation of corporate social responsibility - ISO 26000 must be conducted, and verify compliance with the requirements established in the current Environmental Law, focusing on the principles of prevention, precaution, responsibility and cooperation (Antúnez, 2012; 2015th).

With these instruments, there arises the principle of compulsory compensation for environmental damage attributable to the entrepreneur, in order to restore the initial environmental situation, in addition to other applicable penalties for environmental damages. An environmental audit is added to this in the light of the Caux ethics code. Therefore, the absence of a specific plan or program generates an underlying contradiction between the Cuban administrative practice and

the guidelines of The Supreme Audit Institutions (SAIs) in Latin America and the Caribbean, the rules of the Community Eco- Management and (EMAS) in the European Union and the precepts of ISO 26000, where business management methods are promoted in order to achieve fairness in trade as one of the values added to this type of control.

The eco-audit in Cuba - administrative and business practice

The way in which government affairs are organized in Cuba requires that a private entrepreneur that needs to make an investment that may have environmental impact voluntarily requests environmental monitoring steps, in the way of environmental audits conducted in the company (Gómez, 2011). These audits, as we have seen, unlike those made to public enterprises, are not free and are made by auditors of commercial companies certified by the SAI by means of a plan, which has the qualifications and licensing to practice such economic activity and public service in the country; such audits are intended to forms of non-state management, (i.e. are applied to private management - Antúnez, 2012). The reason why audits on public enterprises in Cuba are free and held by private management has nothing to do with the nature of the goods or the public service. Incidentally, the Cuban legal doctrine distinguishes two forms of management: public or state - run management, and non-state or private management. On this issue, the French doctrine excels in discerning in the basis of the classic administrative law, the two categories of goods and / or services, namely: public and private, and the appropriate public service has to achieve the principles of: quality, continuity, regularity, modernity, generality, reasonableness of prices, courtesy and safety (Furtado, 2013; Támez & Prado, 2005).

Although the control activity is quite important in public administration, its receivers are the ways of state and non-state management, subject to control acts by established agencies that are required to maintain internal control systems according to their characteristics, skills and institutional functions, so that they foster the creation of non-polluting companies, acting in accordance with ISO 26000 standards as environmentally friendly companies (Támez & Prado, 2005). In terms of preventive control, the Cuban legal

order established administrative and business practices, such as (Martin-Mateo, 1994; 2001): authorization, licensing and granting evaluated through environmental auditing, environmental police and environmental monitoring, in order to create more friendly business environment and thus bring others to adopt best practices by means of greater environmental awareness and identification of potential (both natural and technological) risks (Antúnez, 2012; 2015th; Támez & Prado, 2005).

Environmental regulation within the context of the social market economy and democratic rule of law

Economic law and ecological issues

In terms of historical development, the Economic Law or the Antitrust law, as it was initially called in the United States, can be stated as a relatively new field of law, but only after the consolidation of the democratic state of law model, in which appeared the adverse or negative effects of economic liberalism in the economy and society (turned in the formation of a small group of billionaires, made up of 62 individuals, 1% of the world population, which controls 44% of global wealth and a large group, made up of the non-wealthy, poor and dispossessed population, which corresponds to 99% of the world population who have to share with each other, into an already suffered and complicated arithmetic, 56% of the remaining wealth), states gained consciousness and the legitimacy to interfere in the process of generation of the nation's wealth (Kilts, 2010; Furtado, 2013). According to data recently announced at the Davos Conference (2016), the group of the rich who control 44% of the world's wealth is progressively dwindling; for example, in 2010, this group consisted of 338 individuals; in 2014, it went to 80 individuals, while in 2015, it went to 62 individuals. However, this is proof that economic neoliberalism is generating enormous inequalities and increasing poverty pockets worldwide (Pimenta, 2004). This aim has the expressed goal of contributing to the achievement of social justice, a desideratum which, for the first time, won legal protection and later constitutional protection. It was in this context that the first acts to regulate the economic affairs took place, which

aimed particularly to fight against the concentration of companies, against arbitrary imposition of prices and abusive control of the market and the supervision and fight against other violations of the economic order - basically trying to ban trust practices. In particular, we highlight the so-called *Le Decret de Allarde* in France in 1791, The Competition Act in 1889, in Canada, and The Sherman Act of 1890 in the United States. Because of these intentions clearly assumed by these decrees, the Economic Law was (rightly) named the Antitrust Law (Furtado, 2013).

Therefore, what goals are pursued by the nations intervening in domestic economic and environmental orders? Essentially, to ensure the health internal balance of the market, to regulate competition to be fair, to avoid shocking situations or exogenous economic order, seeking external pacification and, in the social field, to establish public policies of income redistribution and social inclusion and environmental balance (Furtado, 2013; Martin, 2009). This is because the liberal experience led to the economic and social order towards a monopolistic concentration of economic power in the hands of big business conglomerates, through the exclusion from the market of medium and small competitors, which have in turn led to the crash of the New York Stock Exchange in 1929 and the external bellicose disputes that ended in the two worst atrocities known in human history: World War I (1914 - 1918) and World War II (1939 - 1945).

Thus, we can point out that in the field of constitutional law compared, for instance, the first constitution known in the history of law, which dealt with economic matters was undoubtedly *La Carta Política Mexicana*, passed on February the 5th, 1917 (in relation to private property), dealing with original and derived ways from to purchase property, abolishing its entire character to submit its use unconditionally to the public interest - which led to the principle of the social function of private property. This fact would serve as a legal bulwark to the sociopolitical transformation embodied in the agrarian reform that took place in that country, where a reform like this was achieved for the first time ever, with the declared purpose of imposition of social justice in land use. Clearly influenced by US antitrust law, the Mexican Constitution sought to fight monopolies, vertical price increases and any practice to eliminate competition. However, the economic and social order only won the materially constitutional

rule status with the German Weimar Constitution, dated 11 August 1919. This was, in fact, the first constitution of a State to abandon the formalistic and individualistic concept, originated in nineteenth-century liberalism to mind the justice and the social and to establish that the “economic order must correspond to the principles of justice, aiming to guarantee a human dignity existence for everyone” just “within these limits is ensured economic freedom of the individual” (art. 151). This also gave more prominence to the social function of property, by declaring that it creates obligations on the holder and its use should be restricted to the general interest (art. 153). Doing away with the canons of individualist law, the Constitution gave the state the power to legislate about socialization of natural resources and economic enterprises (Article 7: 13.) (Furtado, 2013; Martin, 2009).

Hence, it was within this context that the economic law emerged, in order to standardize a set of principles and rules that formalized the state intervention process in the economic, social and environmental order, so as to guarantee social peace, allowing people the right to enjoy national wealth and the common achievements, as well as to safeguard the health of the environment (which would be called social *eudaimonia* in Aristotelian language), eco-development and green economy, as a possibility for citizens and economic operators to be happy in their own country, by means of their work and individual and / or collective initiative (Furtado, 2013; Basurto, 2012).

Regulation of the economic and financial order and the environment in Cape Verde

Cape Verde takes the free enterprise as a fundamental principle and a value of its economic order (article 68 of the Constitution of the Republic of Cape Verde, CRCV – e.g. the private sector for the realization of economic, social and cultural rights and duties); the interference of the government in the nation’s economy is only justified when pursuing larger social interests such as the fundamental objectives, positivized in paragraph 91, n. 1 of the CRCV and 8 of the General Regime of the Administrative Activity Organization – RGOAA (Furtado, 2013).

Indeed, according to Carrasco-Monteagudo (2005), Gómez-Uranga (2005) and Furtado (2013), the State pursues the realization of social and environmental transformation goals, and

promotes socio-economic well-being. Thus, the State must rule on situations of monopolies and oligopolies, mergers and acquisitions, thereby always trying to prevent unfair competition, price and market manipulation by companies and / or individual economic agents, through greater transparency and consumer protection. Along this line of thought, it is worth transcribing the following articles of the CRCV as revised in 2010, illustration purposes:

Art. 91: 1. The exploitation of wealth and economic resources of the country [...] is subordinated to the general interest. 2. The State and other public authorities guarantee the conditions for achieving economic democracy, ensuring, in particular the following: a) the enjoyment by all citizens of the benefits of collective development efforts, translated, particularly in quantitative and qualitative improvement of their level and conditions of life; b) equal conditions of establishment and activity between economic operators and fair competition; c) regulation and supervision of the market and economic activity; d) quality, regularity and accessibility of goods for human consumption, as well as the provision of essential public services; e) environmental quality and balance; f) balanced land use planning and urban planning; g) an enabling environment for free and universal access to knowledge, information and property; h) the balanced development of the islands, and the proper use of their specific advantages.

This has given rise to the need for state intervention in the economic and environmental order, which aims to balance the capital factor and the labor factor, as well as the salvation of the planet, through a model of ecocentric management. In this line, we find De Abreu (2010, p 205-212.), who states as follows: “in market economy systems, economic activity depends primarily on the ability of individuals to organize the production and distribution of goods and services. This is done in order to be able to obtain income which producers expect to be the main beneficiaries of”; we add the following: by ethical behavior in business, paying taxes and defending the environment.

But this is only possible within a context where there is a domestic economic order, with rules equally applicable to economic operators, treating equals equally and unequally those who are not equal, with a view to a situation of perfect competition, where there is no place for

unfair competition and / or exogenous disturbing phenomena of the same economic and environmental order (for example, damage caused to the environment – Ximenes, 2011).

Thus, property, private enterprise and free competition are three basic principles for the operation of the economy, the economic order and environmental policies (De Abreu, 2010). Private property ensures that individuals enjoy and use their property, while individual and / or business initiative allows individuals their free productive, entrepreneurial and commercial use. The exercise of economic initiative (art. 68, CR) happens in the market, under its laws, and assumes potential and effective competition conditions (De Abreu, 2010, p. 43). In conclusion, the environmental audit is the word that prevails.

Although there are situations of limitations or restrictions on the use of private property (for example, in relation to subjecting property to the public interest, which gives it certain social function – See: The Mexican Constitution of 1791, the Weimar Constitution (Germany), 1918 and the 2002 CR, revised in 2010 – Article 69, paragraph 3), the right of private property includes four components: the right to acquire, i.e. the right to access to the property; the right to use and enjoy the property that the individual owns and to exploit them within an economic order, with fair competition rules that are observed at the regulative, normative and cognitive levels (García-Cabrera, García-Soto & Díaz-Furtado, 2015); freedom of transmission, i.e. the right not to be prevented from transmitting their property, whether in life or *mortis causa*; and the right not to be deprived thereof (Furtado, 2013).

On the other hand, freedom of private enterprise or business freedom is, according to these authors, a basic condition for the existence of competition, understood as a social model or as a qualifying criterion of market structures and the types of behavior of economic stakeholders (Adler, 1997). In these circumstances, the state can act in three ways: as a regulator, as a public service provider and as an economic agent. At any rate, the State is to interfere in the economic order as regulator, aiming to defend the order established by undue intrusion and other infractions to normal balanced operation of the market – such as formation of monopolies, concentration of businesses, vertical price increase and unfair competition in different sectors (Furtado, 2013).

Therefore, the Environmental Law it is a transdisciplinary field, which has connection with the criminal, civil, administrative, economic, business, and labor laws. Its field of action is the defense of diffuse interests, since the preservation and maintenance of the environment benefits everyone equally despite being an abstract and diffuse matter. Hence the assumption that:

Everyone has the right to an ecologically balanced environment of common use, which is essential to a healthy quality of life, prevailing over the government and the society, with the duty to defend it and preserve it for present and future generations, through a rational use of natural resources, in order to allow renewal thereof (art. 73 of the CRCV).

While the tenets of environmental policy are based on prevention, promotion, balance, participation, management unit and action, international cooperation, looking for the most appropriate level of action, recovery and accountability, in order to overcome desertification and the effects of drought (Caferrata, 2010), the objectives of the Environmental Law foster – above all – economic development and social development, by means of environmental preservation as explained above (Betancort, 2001). The Environmental Law in Cape Verde – as in any other country – is not only to protect and preserve the environment as an end in itself. This would be a mistaken view, since at no time does Environmental Law seek to hamper socio-economic development (Cabeza, 2003). On the contrary, halting socio-economic development will indirectly cause greater damage to the environment, as irregular activities will begin to appear. Cape Verde's environmental policy is based on two principles that guide each and every issue related to Environmental Law: the precautionary principle, on the one hand and, on the other, the *polluter pays* principle (Caferrata, 2010). It is known that recovery from environmental damage is extremely long, with rare exceptions. The ultimate goal of a national environmental policy is to avoid damage. The Cape Verdean environmental legislation boils down to avoiding damage, not trying to remedy it, fix it or punish it later (Betancort, 2001). This means that avoiding environmental damage is the main goal, which is why the precautionary principle should guide all matters of environmental policy, and it receives its constitutional mandate as per item 73 of the CRCV.

Discussion and conclusions

Based on the arguments, theses and antitheses expounded above, it can be inferred that being a successful businessman today means to care for the environment. It is necessary to hold coaching sessions on ecocentric and environmental management in academia and companies, aiming to promote a culture that prioritizes environmental concerns, policies and measures, as a source and factor of business competitiveness. The main concern underlying environmental laws of all countries – especially the SIDS (Cuba and Cape Verde, given their peculiarities studied here) is related to human beings. Thus, it can be clearly stated that Environmental Law aims – above all – to protect the environment from malicious anthropogenic action. The social aspect of Environmental Law has grown in recent times; an example of this is the fact that the legal framework of the national health system that is being regulated in the countries studied already include the need for environmental protection, including the link between these needs and the quality of work relationships taking place in the institutional, organizational and natural environment. There is an umbilical relationship between the Environmental Law and the labor, business, economic and administrative law, as stated in the Declaration of Rio-92, n. 1:

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature (Philippi, 2001).

Consequently, we argue that, within a framework of socio-environmental constraints and weaknesses akin to island territories, productive activity must always be subject to environmental scrutiny (Conesa, 2003), in favor of eco - development of these territories (section 2; Díaz-Furtado, García-Cabrera & García-Soto, 2014). The existing economic and environmental constraints usually generate greater social vulnerability. As a result, we usually observe relative delay in their development indicators, which goes hand in hand with inadequate technological capacity, low innovation and a lack of ability to benefit from the learning effect – for example, learning by doing. For this reason, SIDS are usually countries which are very open to foreign economies, depend on foreign countries and are very fragile ecologically speaking. This is yet another reason environmental audit and ecocentric management of the scarce

resources available gain importance in SIDS, so that these weaknesses and limitations create sources of competitive advantage and business opportunities (Bateman & Snell, 2007), within an environmentally friendly management approach (Antúnez, 2015a; Conesa, 2003). These characteristics and specificities of SIDS require – and explain – the establishment of a global alliance against climate change and mitigating its effects, based on the creation of adaptive capacity and resilience of these territories to the risks of natural and / or industrial disasters (MSI, 2005). This alliance must be based on a long - desired territorial convergence and economic – social, Aristotelian - distributive justice, whereby one should not treat the unequal equally or unequally the equal (Furtado, 2015; Díaz-Furtado, García -Cabrera & García-Soto, 2016).

According to Martin (2009), Ximenes (2011), Astrong (2012), & Antúnez (2011; 2012; 2014; 2015a; 2015b) if everything continued under the current trend in terms of CO₂ and greenhouse effect gas emissions, the planet's temperature would rise by over 2.7 degrees and even 4.0 degrees, according to others, by the end of the year 2100. Environmentalists argue that if this happens, life would be impossible on the planet (Ximenes, 2011); therefore, the highest acceptable temperature increase is less than two degrees. Doing so would require extreme measures for the following extreme situations; for example a reduction of greenhouse effect gas emissions through the dissemination of sources of clean or renewable energy. In addition, the rich countries – the greatest polluters (e.g., China, United States, the Russian Federation, India, Brazil, etc.) have to reduce their emission rates to acceptable levels and engage in an international agreement on climate (e.g. the Paris Climate Change Conference - November the 30th 2015) with binding rules⁴, aimed at saving the planet. Subsequently, it is necessary to establish a Green Climate Fund (GCF), with a commitment to provide USD 30 billion in fast start funding for the 2008-2012 period, powered by USD 100 billion per year (€ 76 billion) from 2020 to meet the

⁴ The points open to criticism were as follows: gradual – perhaps too slow – decarbonization (e.g. total production of energy from fossil fuels) and self-certification (e.g., each country can control its own emissions reductions). However, the Agreement itself would seemingly be even a landmark: the beginning of the end of the fossil fuels era.

needs of developing countries, which generally are those that pollute less, but those who suffer most from the effects of global warming). Finally, it is necessary to improve energy efficiency in buildings, transport (Vasconcelos, 2006) and the industry, since the main battles against global warming are – or should be – waged in cities (Rueda, 2009; Campesino, 2011). It should be noted that 70% of pollutant greenhouse gas emissions are made in cities, and 90% of cities are located in coastal areas. It would be interesting to find out what life would be like in cities in the year 2100, when the planet's temperature rises to these levels (Rueda, 2009).

In light of the above, this article advocates for a social role of the company, which is an ecological approach (Basurto, 2012; Astrong, 2012; Antúnez-Sánchez, 2015), by which it is possible to create a competitive advantage and a potential catalyst for innovation, new market opportunities and wealth generation (Kilts, 2010), based on a logical win-win, where the company implements beneficial actions either to for themselves or for the environment. This goes against Smith's conception of the invisible hand, which calls for the disengagement of the state. As stated above, this would inevitably lead to the creation of a capital overlay situation on the labor factor, on the one hand, and also because the law (as normative social order) cannot stop the insatiable greed of *homo economicus* for unlimited profit or its action as a predatory being on the environment without the aid of ethics. Irresponsibility and lack of planning in the use of available resources cannot be stopped without ethics either; for this reason, we advocate for more ethics in business, since the lack of ecology of human beings themselves almost always takes a bad management of the resources under our care – which including environmental management per se. We advocate for the activation of the principle of Environmental Law whereby polluting countries and companies must financially participate, so that the containment of greenhouse gas emissions stays well under 2 ° C above pre-industrial levels. Polluters must also make efforts to limit the temperature increase to 1.5° C above pre-industrial levels (Santos, 1981). An instrumental strategy would be the creation of the GCF (Rinaldi, 2013) to finance the development of developing countries, since the latter are the least polluting but the main victims of global warming (Rueda, 2009; González, 2014). In addition to the

above, and in order to prevent the planet from collapsing, justice would be done for capital - intensive (developed) countries, which are precisely those that export pollution; in turn, labor – intensive countries (developing countries) are importers of said pollution (González, 2014). However, albeit the emissions cuts promised by countries are totally inadequate nowadays, the comprehensive COP-21 agreement sends a strong message to entrepreneurs, investors and citizens, “energy is now clean and fuel fossils belong to the past”, as stated by scientist Corinne Le Quere, directress of the Tyndall Centre for Climate Research, England.

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