

The Reflexes of the Brazilian Forestry Code in Agribusiness

Rildo Mourão Ferreira¹, Paloma Pflüger Barbosa²

¹Pós-Doutor em Desenvolvimento Sustentável pela UnB. Doutor em Ciências Sociais pela PUC/SP. Mestre em Direito Empresarial pela Universidade de Franca. Pós-Graduado em Direito das Relações do Trabalho pela Universidade Mogi das Cruzes. Professor Titular da Faculdade de Direito da UniRV. Professor do Mestrado em Direito do Agronegócio e Desenvolvimento da UniRV. Bolsista do Programa Bolsa Pesquisador da UniRV. Membro do Grupo de Pesquisa – Direito, Agronegócio e Sustentabilidade – UniRV, certificado pelo CNPq.

²Graduanda do curso de Direito da Universidade de Rio Verde-GO. Bolsista do programa de Iniciação Científica da UniRV, na modalidade PIBIC, certificado pelo Conselho Nacional de Desenvolvimento Científico e Tecnológico – CNPq.

Received: 11 Sept 2020; Received in revised form: 16 Nov 2020; Accepted: 23 Nov 2020; Available online: 02 Dec 2020

©2020 The Author(s). Published by AI Publications. This is an open access article under the CC BY license

(<https://creativecommons.org/licenses/by/4.0/>)

Abstract— *The research addresses the reflections of the Brazilian Forestry Code inserted in the context of agribusiness, observing its development in parallel with environmental preservation. The objective is to identify the repercussion of forest legislation on agribusiness, promoting reflection on the unrestrained exploitation of nature resources in Brazil, which cause present and future impacts on the environment, especially in Conservation Units. The expansion of agribusiness has advanced and transformed socio-environmental relations, so that the effectiveness of forest legislation is fundamental to ensure an ecologically balanced environment. However, it is essential to highlight the awareness policies for preserving the Conservation Units as a means of achieving the sustainable development of agribusiness. The article is of a descriptive nature, using bibliographic research, data gathering, Brazilian Forest Code legislation and other scientific bases. Thus, it was verified that the current forest rules seek environmental preservation, which is fundamental for the safety of future generations. Also, the agribusiness was benefited, because the Forest Legislation made the suspension of fines more flexible, in the case of the institution of Permanent Preservation Areas and Legal Reserves, besides the creation of the Rural Environmental Cadastre and, consequently, the exemption from the registration of the Legal Reserve.*

Keywords— *Agribusiness; Environmental Preservation; Brazilian Forestry Code; Nature Resources.*

I. INTRODUCTION

This article was prepared under the Scientific Initiation Program of the University of Rio Verde, in the modality PIBIC/CNPQ (2019-2020), with support from the National Research Council - CNPQ.

The research consists of a study on the legislation of the Brazilian Forest Code of 2012 and its repercussions on agribusiness and the environment, since environmental impacts occur in an exacerbated manner over the years.

The objective is to make an analysis about the repercussion occurred in the current Brazilian Forest Code (Law n. 12.651/2012), and its scope to promote the regularization of agribusiness in parallel to environmental preservation.

Besides, the present work was developed with theoretical character, aiming a better understanding of the approached subject. It contextualizes facts and concrete data, through bibliographical analysis, promoting reflections about the existing Conservation Units, in order to explain the effectiveness of the legislation about the environmental preservation and the regularization of protected areas, which reflects directly on the agribusiness.

To this end, it addresses agricultural expansion and the importance of the 2012 Brazilian Forestry Code, explaining the relevance of the Conservation Units and the Cerrado biome for the development of agribusiness and environmental preservation, in addition to the regularization of rural properties in light of previous forestry legislation and current legislation.

Thus, the article seeks to identify the reflexes of the current Brazilian Forest Code in relation to environmental preservation, with notes on natural resources and the occurrence of environmental damage from agribusiness, as well as the importance of sustainable development and the need for regularization of rural properties in light of current forest legislation.

II. METHODOLOGY

The methodology adopted in this research work is of a theoretical nature, using doctrines, bibliographies in general, scientific databases and legislation, such as the Federal Constitution of 1988, the Brazilian Forest Code of 2012, the Forest Code of the State of Goiás and the Environmental Crimes Law.

During the research, a study was carried out with scientific data and information, as well as legislation related to the central theme, by means of concrete and recurrent facts in the past and current environmental daily life faced in Brazil.

With this, the interpretation of the material found was passed, giving focus to the innumerable reflections on the subject, so that it was demonstrated the need to promote a sustainable development of the Brazilian agribusiness, since the environmental preservation can guarantee the existence of the Conservation Units that, in turn, conserve the finable natural resources and make possible the extraction of raw material.

In the end, the procedure adopted presents practical results about the reflexes of the current Brazilian Forest Code of 2012 in the context of agribusiness and environmental preservation.

2.1. EXPANSÃO AGRÍCOLA E AGRONEGÓCIO

Agriculture is considered, without a doubt, one of the oldest activities performed by man, since it is from it that he draws food for his livelihood, and it is the basis for the consolidation of his activities.

Over time, individuals have over-exploited natural resources, which has resulted in marks on the environment, so that the forests are no longer totally natural and have become a field for the development of agribusiness.

Now in the 21st century, we are living several experiences of scarcity of natural resources that were once considered inexhaustible. Not only for lack of legislation aimed at their protection, but also for lack of inspection and effective

punishment for offenders, who know it is more advantageous to pay small and insignificant fines than to stop making large financial profits, exploiting the resources that nature took centuries to form (CÉSARO; FERREIRA, 2018).

It is understood that the expansion of arable areas for the production of grains and intensification of farming entails losses both in terms of social welfare and the scarcity of numerous natural resources in Brazil, in addition to demonstrating a significant increase in the incidence of constant environmental damage together with negligence in the inspection by government agencies.

Due to the nature of the climate and the type of vegetation, the presence of fire is, to a certain extent, a natural phenomenon in the Cerrado - this is why vegetables and some animal species are adapted to survive the fires. However, the fires, criminal or not, which are sometimes counted as "grazing activity" cannot be underestimated in their effects on biodiversity and the regional climate [...] (MILARÉ, 2018).

With the expansion of land to benefit the development of agribusiness, changes have occurred in this territory, making the Cerrado one of the biomes with the highest rates of damage resulting from human interventions, which has led to soil erosion, pollution of aquifers, extinction of animal species, in addition to compromising the incidence of rainfall by evapotranspiration. Such changes also occur due to the numerous areas deforested over time, which cause environmental impacts and undermine the conservation of natural resources as a source of raw material for food production.

The Cerrado has a total area of 2,047 million km², which is divided among several states in Brazil. Therefore, it is considered the second largest biome in South America, occupying about twenty-four percent (24%) of Brazilian territory, and its origin occurred through phenomena such as fire, forming a savannah with several species of vegetation, which were surviving the dry soil and prone to burning (MILARÉ, 2018).

It is pointed out that the Forest Legislation of the State of Goiás - Law n. 18.104/2013 - established the

protection of the native vegetation of the cerrado and instituted the new Forest Policy of the State of Goiás, with the objective of controlling the environmental degradation of this biome.

Although the search for environmental preservation is tireless, it is necessary to align the proper management of agricultural and farming practices, in order to enable sustainable development, because agribusiness provides the increase of exports in Brazil, benefiting the economy. According to data released by the Secretariat of Agriculture, Livestock and Supply of the Government of the State of Goiás, in October 2019 the development of agribusiness resulted in the participation of about 70.6% of exports in its territory.

With this, it can be seen that the current Brazilian Forestry Code has positively influenced and benefited agribusiness in view of the flexibility regarding the legal reserve, as well as the suspension of fines for rural producers who have committed environmental crimes, provided they occurred prior to July 22, 2008.

Thus, considering the environmental damages that the agricultural expansion has caused throughout the years, as well as the irregularity of tenants and rural landowners in face of previous forestry legislation, it is observed that the current Brazilian Forestry Code - Law no. 12,651/2012, made the regularization of properties that were irregular flexible, benefiting agribusiness in a significant way.

2.2. SUSTAINABLE DEVELOPMENT OF AGRIBUSINESS

The search for sustainable development is growing more and more in Brazil, and practices are being adopted that aim at environmental preservation allied to agribusiness. The use of land without sustainable practices can generate irreparable damage to the environment, and economic losses within the activity.

Sustainability consists of the existing natural resources, while without it, far beyond society, biodiversity would also be vulnerable, resulting in serious risks to the global ecosystem (MILARÉ, 2018).

As for natural resources, their definition is very broad, since it covers land, soil and its topography, water, climate, ore, as well as the possibility of fishing, integrating the location and geographical extension of these resources (BURANELLO, 2018). For this reason, the awareness of agricultural entrepreneurs about the protection of the Conservation Units is of extreme importance so that entrepreneurial actions are carried out with special attention to sustainable development.

Antunes (2019) defines Conservation Units as "[...] territorial spaces which, by virtue of an act of public authority, are destined for the study and preservation of specimens of flora and fauna [...]".

According to article 2, item XI, of Law 9.985/2000, sustainable use is about exploring the environment in a way that guarantees the continuity of renewable resources and ecological processes, so that biodiversity is maintained in a fair and economically viable way.

Although the environment presents an abundant ecosystem, sustainability is still difficult to achieve, since the great majority of the population does not recognize the importance of natural resources for agribusiness.

With the transformations that the environment undergoes as a result of exploitation, specifically for agricultural expansion, native flora and fauna are harmed, since burning and deforestation occur, in addition to the high rate of water use and land use in an immoderate manner. The indiscriminate use of natural resources can cause irreversible damage, involving current and future generations.

"Thus, environmental management in agribusiness must be based on an ecological approach, whose focus implies the integral treatment, before, during and after production, of all relevant environmental issues [...]" (BURANELLO, 2018).

The relevance of the studies and the achievements in favor of the protection of the natural environment of the group of scientists protecting nature, from the 19th century on, under the aspect of valuation and care of forests, fauna and flora, deserves to be reassessed in the light of current legislation. This new evaluation of the natural environment in the XIX century will provide reflections and practices for the maintenance of the vegetation still existing in Brazil, as well as, the regularization (spontaneous or coercive) of rural areas, public and private, that had irregular suppression of vegetation by anthropic actions (CÉSARO; FERREIRA, 2018).

"Sustainability is associated with economic and material development without harming the environment, using natural resources wisely so that they can be conserved in the future, i.e., they aim at the very survival of the planet [...]" (MOREIRA, 2018).

In fact, especially in the Cerrado biome, sustainability becomes a challenge, since society does not understand that fauna and flora, while a diverse set of native vegetation and animals, carry a commercial potential of great value (MOREIRA, 2018).

Thus, it can be observed that from the 19th century on, through research by scientists and scholars who were concerned with nature, the protection of the fauna and flora in Brazil began to be valued, so that the practices of maintenance and conservation of vegetation in rural and urban areas have been gaining focus in the current forest legislation.

2.3. REFLEXES OF THE FOREST CODE IN THE LEGAL RESERVE

The Legal Reserve has its concept expressed in art. 3º, of Law 12.651/2012, where it foresees that it consists of an area of environmental conservation, of limited percentage in rural properties, with expressive relevance, since it is a good of interest of the society, with function to assure the sustainable economy of land use in rural properties.

It is a delimited rural area that must be preserved, given the existence of native vegetation.

The legitimate function of the Legal Reserve Area is to assist in the conservation and rehabilitation of ecological processes and to promote the conservation of biodiversity, as well as the shelter and protection of wildlife and native flora; in short, it is to conserve and contain forest devastation (LIMA; FERREIRA, 2018).

"[...] Forests and other forms of native vegetation, except the APPs, are susceptible to suppression, provided that a percentage is maintained as RL (BURANELLO, 2018).

Antunes (2019) emphasizes that the Legal Reserve is an indispensable component within the property, since it is part of an area expressed in law, varying according to its particularities, such as the region and the ecological conditions in which it is located, being prohibited the deforestation of trees to be used for traditional economic purposes.

In this sense, the percentage of the RL area is subject to some factors, such as the location and the predominant biome, according to article 12, of Law n. 12.651/2012:

Art. 12. [...]

I - Located in Legal Amazon:

a) 80% (eighty percent), in the property located in forest area;

b) 35% (thirty-five percent), in the property located in the cerrado area;

c) 20% (twenty percent), in the property situated in a general field area;

II - Located in other regions of the country: 20% (twenty percent) (BRAZIL, 2012).

According to article 17, paragraph 1, of Law n. 12.651/12, in the RL area only "economic exploitation of the Legal Reserve by means of sustainable management, previously approved by the competent agency of Sisnama, in accordance with the modalities provided for in article 20 of the law, is allowed".

The National Environmental System - SISNAMA is, in law and in fact, an official political-administrative, governmental structure, although open to the participation of non-governmental institutions and society, through the competent channels. It is constituted by the organs and entities of the Union, the States, the Federal District, the Cities and the Foundations instituted by the Public Power, responsible for the protection and improvement of the environmental quality [...] (MILARÉ, 2018).

In turn, article 20 expresses: "In the sustainable management of the RL forest vegetation, selective non-commercial exploitation practices will be carried out for own consumption and sustainable management for commercial exploitation" (BRAZIL, 2012).

In addition, family farming properties are currently allowed to include as a Legal Reserve areas that have fruit and ornamental trees, i.e., exchange the native forest for a plantation. This management does not require authorization from environmental agencies, as long as it is destined for their own use, although it has an annual limit of 20 (twenty) cubic meters, as provided by the current Brazilian Forest Code.

Another innovation that Law n. 12.651/2012 brought, was the possibility of computing the Permanent Preservation Area in the calculation of the Legal Reserve area, as foreseen in article 15 of the referred forest legislation. The clauses of art. 15 express that the act is allowed only in the following hypothesis: when it does not imply in conversion of areas for destination other than the

registered one; when the computed area is conserved or going through a recovery process, by means of proof of the owner with the competent organ of Sisnama; when there is a request of registration of the property in the Rural Environmental Register (BRAZIL, 2012).

The 1965 Forestry Code did not foresee the mentioned possibility, and the registration of the Legal Reserve should be done outside the registration of the property, which represented an expressive financial cost to the rural producer. With the sanction of the current Forest Code - Law 12.651/2012, in its article 14 allows the RL to be registered in the Rural Environmental Registry - CAR, dispensing with the registration and, consequently, representing lower financial cost.

It should be noted that the Legislation maintained the possibility of the producer or tenant to constitute a Legal Reserve in another municipality or even in another state, provided it is in the same biome. Therefore, the Forest Code of the State of Goiás has adopted this provision for an extra-ownership reserve, since the Brazilian Forest Code allows the constitution of a legal reserve in this modality.

2.4. REFLEXES OF THE FOREST CODE IN THE AREA OF PERMANENT PRESERVATION

According to art. 3º, of Law n. 12.651/2012, the Permanent Preservation Areas consist of an area of conservation of native vegetation, which has the objective of protecting the soil, protecting the river slopes against the impacts of heavy rains and reducing the arrival of sediments to water courses.

Art. 3. [...] means: I (...); II - Permanent Preservation Area - APP: protected area, covered or not by native vegetation, with the environmental function of preserving water resources, landscape, geological stability and biodiversity, facilitating the gene flow of fauna and flora, protecting the soil and ensuring the well-being of human populations (BRAZIL, 2012).

These are areas that aim at the conservation of riparian forests, as well as vegetation on the slopes of rivers, lakes and hills. "[...] Permanent preservation forests cannot be managed in such a way as to suffer shallow cuts" (BURANELLO, 2018).

It is verified that the APPs serve as filters for the sediments that reach the river and lake beds, thus promoting environmental preservation. "The main purpose of the establishment of permanent preservation flora in the above mentioned places is to avoid land erosion and soil

destruction, preserving the integrity of geographical accidents [...]" (ANTUNES, 2019).

For Lima and Ferreira (2019), the deforestation and use of land around the APPs causes the accumulation of sediments, compromising the water surface and causing damage to the population. Another degradation factor is the pollution caused by sewage and garbage accumulated in the pits that are built in permanent preservation areas.

For this reason, Law n. 12.651/2012 in its article 7 to 9, provides the Regime of Protection of Permanent Preservation Areas, whose article 7 expresses that the vegetation located in these areas must be maintained by the owner, possessor or occupant, and in case of suppression of the vegetation located there, the person responsible for the area is obliged to perform the recomposition of the vegetation, except when it is a use in which the authorization is expressed in Law. Also, art. 8, §1 of the Law, foresees that it is allowed the intervention or suppression of vegetation in APP, which protects springs, dunes and sandbanks. However, this suppression or intervention may occur only in cases of public utility, social interest or low impact on the environment, with due authorization from the Federal Executive (BRAZIL, 2012).

Buranello (2018) states that, in addition to the aforementioned suppression or intervention of native vegetation, the current Forestry Code allows the transit of animals and people in these areas, with the specific purpose of obtaining water and actions that do not have a high impact on the environment. The author states that the 1965 Forest Code allowed this access with the sole and exclusive purpose of obtaining water, and with the condition that no suppression or intervention of native vegetation be carried out.

Thus, when there is an incidence of suppression or intervention with environmental impacts, it stands out for the existence of the necessary recomposition in consolidated rural areas, as is the case of Permanent Preservation Areas. This is the "restoration of an ecosystem or a native biological community degraded or altered to a non-degraded condition, which may be different from its original condition", according to item VIII, of article 2, of Decree nº 7.830/2012, which provides for the Rural Environmental Cadastre.

Still, the article 61-A, §13, of the Law n. 12.651/2012, foresees that the recomposition can occur in the following way:

§ 13. [...]

I - conduction of natural regeneration of native species;

II - planting of native species;

III - planting of native species combined with the conduction of natural regeneration of native species;

IV - intercalated planting of woody, perennial or long cycle, exotic species with native species of regional occurrence, in up to 50% (fifty percent) of the total area to be recomposed, in the case of the properties referred to in clause V of the caput of Article 3 (BRAZIL, 2012).

The forest legislation innovations presented the possibility of using a percentage of the APPs in the calculation of the Legal Reserve, whose prevision is disposed in art. 15, of Law n. 12.651/2012. The legal provision points out some requirements that, among them are: the benefit granted does not result in alternative use of the soil; the computed area must be preserved or in recovery; and that the owner or possessor has registered the property in the Rural Environmental Register (BRAZIL, 2012).

In this context, Permanent Preservation Areas are essential as a natural resource, and it is essential that there is awareness on the part of society, especially in the agricultural activities sector, which need water for their effectiveness.

2.5. THE FOREST CODE AND THE RURAL ENVIRONMENTAL REGISTER

The CAR - Rural Environmental Registry, is an innovation provided for in Article 29 of the Brazilian Forest Code of 2012, which consists of an electronic and mandatory public registry for rural properties, with the purpose of storing georeferenced environmental data of a property or rural property, for the control, monitoring and combating deforestation of forests, native vegetation and preservation of Conservation Units.

The registration occurs following some requirements expressed in §1º of art. 29, of Law n. 12.651/2012, such as: identification of the owner or that has ownership of the rural property; proof of ownership or possession; identification of the property, presenting the plant, descriptive memorial and indicating the geographic coordinates, as well as the areas of native vegetation, which consist of Permanent Preservation Areas, Areas of Restricted Use, Consolidated Rural Areas and Legal Reserve, if it exists on the property (BRAZIL, 2012).

Likewise, the current Forestry Code presents the mentioned innovation in the matter, since there is the

possibility of waiving the registration of the Legal Reserve in the registration of the property, as long as the owner or holder makes the registration in the Rural Environmental Register, as provided in § 4 of art. 18 of Law no. 12.651/2012 (BRAZIL, 2012). This is what highlights Milaré (2018) when dealing with the exemption in the obligation of registering the Legal Reserve with the Real Estate Registry Office, being necessary, currently, only the registration in the competent environmental agency, through registration in the CAR.

Before the legislative alteration, the property that does not have environmental liabilities related to the Legal Reserve, Permanent Preservation Area and Restricted Use Area, or that presents liabilities, but with the commitment to recover the damage, may have the CAR regular and, after the registration of the property in the referred mechanism, the future suppression of protected areas depends on authorization. The owner or owner of the rural property who claims the existence of environmental liabilities for suppression of native vegetation or areas destined for preservation, guarantees the possibility of adhering to the Environmental Regularization Program - PRA, as long as it occurred prior to July 22, 2008 (BURANELLO, 2018).

According to art. 59, § 2 of Law n. 12.651/2012, the registration of the rural property in the Rural Environmental Register is a mandatory requirement to adhere to the PRA, and must be requested within 2 (two) years (BRAZIL, 2012). The PRA consists of a program that enables the adaptation of rural properties to comply with the Forest Code in force, specifically regarding Permanent Preservation Areas, Legal Reserves and Restricted Use.

With the adhesion to PRA, which represents an evolution of the Forest Codes, a great part of the rural properties could be regular under the current legislation. The regularity occurs through compensation, recovery, regeneration and recombination of protected areas. That is, the owner or possessor presents a plan to repair the environmental damage that, after approved, is signed by means of a term of commitment, constituting an extrajudicial executive title. The recovery may not exceed 10 (ten) years, and during the period established in the commitment term, the fines for environmental infractions are only suspended, as expressed in articles 59, §§ 3, 4, 5 and art. 60, of Law n. 12.651/2012 (BURANELLO, 2018).

Furthermore, the respective legal provision expresses that the PRA must be implemented by the Union, States and Federal District, aiming at the regularization of rural properties and possessions.

As long as the obligations established in the PRA are met, within the deadlines and under the conditions agreed upon in them, the fines imposed on the consolidated rural areas of the property will be suspended. They will only be considered as services of preservation, improvement and recovery of the quality of the environment, as defined in the current Forest Code, in art. 59 and art. 60, § 2, after their full compliance, making the punishment provided for in the Environmental Crimes Law extinct. If for any reason the terms of the agreement are not complied with, the violator will be sued for the full amount of the fine previously due (CÉSARO; FERREIRA, 2018).

Finally, Buranello (2018) elucidates the benefits of registration in the CAR for rural producers, which include: legal security, suspension of fines, the possibility of acquiring agricultural credit and adherence to the environmental regularization program, planning of rural property and purchase and sale of environmental reserve quotas.

In view of this, it is possible to observe that the Rural Environmental Cadastre is an innovation of the current Forest Code, providing a system that stores nationwide records, with the capacity to integrate information related to rural properties through a satellite, which makes up the rural property database.

Therefore, adhesion to the Environmental Regularization Program is a benefit granted by forestry legislation, as long as the producer or tenant registers his property in the CAR, representing in a significant way the recovery of the environment, since many rural properties were able to stay regular by adhering to the requirements established in the legislation.

2.6. REFLEXES OF THE BRAZILIAN FORESTRY CODE IN THE ENVIRONMENT

Actually, we are living several experiences with the lack of natural resources, which used to be considered infinite. As can be seen, this occurs due to the lack of awareness, inspection and punishment of transgressors.

In 1934, the first Forestry Code came into force in Brazil, through Decree n. 23,793, which was later revoked by the second Forestry Code - Law n. 4,771/65. During this period, sustainable development was not the focus of the concerns of landowners and the government, which were only interested in agriculture, cattle raising and wood

production, in addition to the conviction that natural resources would never cease (CÉSARO; FERREIRA, 2018).

With the advent of the 1965 Forest Code, in the midst of military intervention, the squatters who occupied Amazonia were allowed to partially deforest their plots - up to 50% (fifty percent), and if they did not, the State would have the power to resume ownership of the property. This caused irreparable damage to the environment, causing the property to be irregular under the Forest Code in force at the time (LIMA; FERREIRA, 2018).

Subsequently, the Federal Constitution of 1988 inserted article 225, with emphasis on the environment, imposing rights and duties on everyone, in favor of environmental preservation, and determining the application of sanctions to anyone who infringed the legislation.

Art. 225. Everyone has the right to an ecologically balanced environment, a good for the common use of the people and essential to a healthy quality of life, imposing on the Public Power and the collectivity the duty to defend it and preserve it for present and future generations. § 3º - The conducts and activities considered harmful to the environment will subject the offenders, individuals or companies, to criminal and administrative sanctions, regardless of the obligation to repair the damage caused (BRAZIL, 1988).

In addition, the Federal Constitution had already instituted the Conservation Units in the mentioned legal provision, imposing as a State attribution:

III - to define, in all Federation units, territorial spaces and their components to be specially protected, being the alteration and suppression allowed only by law, forbidden any use that compromises the integrity of the attributes that justify their protection (BRAZIL, 1988).

In the words of Milaré (2018), this provision in the Federal Constitution emphasizes the principle of public nature of environmental protection, which recognizes the environment as public heritage, seeking to ensure a relationship of balance and harmony between the human being and nature.

Therefore, the Environmental Crimes Law - Law n. 9.605/98, which stipulated and detailed these possible sanctions in the civil, criminal and administrative spheres to those who cause environmental damages, was in force. "[...] From what is understood in the constitutional text, one responsibility does not exclude the possibility of another, so that the system of environmental responsibility is multiple and must be articulated, jointly and systematically" (BURANELLO, 2018).

In this sense, through Law No. 12,651 of 2012, the third and current Brazilian Forest Code was sanctioned, which deals with the protection and suppression of native vegetation, the imposition of fines and the regularization of the Rural Environmental Cadastre.

One of the most important normalizations implemented by the current Brazilian Forestry Code was the creation of the Rural Environmental Cadastre (CAR), since this is a mechanism for the control and monitoring of environmental damage in rural properties, which have expanded intensely over the years. The CAR released the rural producer from the obligation of registering the Legal Reserve on the property registration with the Land Registry Office (CRI), since the percentage of the RL area is monitored via an electronic system, which is stored in a database.

The Forest Legislation establishes the Conservation Units, which aim to reduce the environmental impacts, in order to promote the maintenance of the environment. In turn, it deals with the APPs - Permanent Preservation Areas - which have the function of protecting the soil, since they contribute to reducing the impacts caused by the rains on rivers and lakes.

The importance of maintaining the APPs on rural and urban properties, as well as the need to observe the marginal strips in the water courses, following the footage and widths, are provided for in Article 4 of the respective forestry legislation.

The protection of APP and RL is not a mere conservation of the Brazilian forest heritage. It is a matter of constitutional principles that aim to ensure the functioning of ecological services of natural resources for the enjoyment of the owner and society. However, this new understanding of the socio-environmental function of rural property, the notion of rights and duties are not watertight, since the duty is not directly

linked to a legal restriction (BORLACHENCO Et al., 2014).

The Brazilian Forest Code, through Law no. 12,651 of 2012, made changes to the Permanent Preservation Areas, regulating the extensions of the marginal strips of watercourses, which must be protected for preservation purposes, in addition to changes in relation to the Legal Reserve, where the sum of the APPs was authorized for the calculation of the RL. Among the alterations to the current Brazilian Forest Code in the area of environmental preservation, there is also a reduction in the extensions of protection relating to Permanent Preservation Areas.

It is pointed out that the Legal Reserve in rural properties aims to ensure a sustainable economy, while maintaining the conservation of biological diversity, protecting native fauna and flora. This species of Conservation Unit (RL), consists of the minimum percentage that must be safeguarded for the preservation of native vegetation, of which the size of the rural property, the species of existing vegetation and the location in which it is located is limited. "It is a very important socio-environmental reserve of the rural property, which must be geographically rented and, even being of private property, is an asset of common interest" (CÉSARO; FERREIRA, 2018).

In this context, in relation to production and regional economy, the Cerrado biome, which has an estimated territorial area of about 24%, is the second largest biome in South America (MILARÉ, 2018).

Thus, agribusiness represents the main source of economy in Brazil, since it is the territory with the highest levels of food production, and especially the State of Goiás, which is located in this important biome. "In 2001 the sector was responsible for 17.54% of the product generated. Studies have shown that about 41% of the Goiás municipalities have their main economic activity in agriculture" (FERREIRA Et al., 2019).

On the other hand, agribusiness is used as a justification for environmental degradation, since there is intensification of agricultural expansion through deforestation, which mostly occurs irregularly, generating serious environmental damage.

With this, the Brazilian Forestry Code addressed the need to preserve the environment, however, it foresees the possibility of suspending fines prior to July 22, 2008, as well as calculating the Permanent Preservation Area in the calculation of the Legal Reserve, the implementation of the CAR and the non obligatory registration of the RL in the property registration.

The Brazilian Forest Code, in its articles 52 to 58, also innovated by including small family farmers in this context and granting special treatment to small rural owners. In this case, family farming properties are allowed to include as RL areas with fruit and ornamental trees, i.e., to exchange the native forest for a plantation. In addition, this management does not require authorization from environmental agencies, as long as it is intended for their own use.

In view of this, countless rural properties have acquired regularity before the Forest Code in force, which means that the forest legislation has made a rule more flexible for the benefit of a production class.

III. RESULTS AND DISCUSSIONS

The research approaches the reflexes brought by the current Forest Code in Agribusiness, so that it demonstrates its effectiveness for the growth and development of the agricultural economy allied to the preservation of the environment.

In view of the great exploitation of natural resources in favor of agribusiness, it describes the changes brought about by the Brazilian Forest Code of 2012, informing and seeking to raise awareness of the importance of complying with environmental standards in order to achieve success in environmental preservation and development of agribusiness, demonstrating that both should walk side by side.

Thus, considering that agribusiness is developing in a growing way, becoming evident the importance of the Conservation Units and the Cerrado biome for its development, and especially for the effective conservation of natural resources, it has been verified that there are countless reflexes of the exacerbated exploitation of agribusiness with regard to the environment, as well as the importance of complying with environmental legislation.

It was possible to verify that the Brazilian Forestry Code implemented norms that made possible the regularization of several rural properties, being a significant advance, because rural producers that committed environmental infractions until July 22, 2008 may have the suspension of environmental fines, as long as there is adhesion to the Environmental Regularization Program - for the recomposition of the damage caused - after the registration in the Rural Environmental Register.

Thus, despite the existence of debates about the effectiveness of the Forest Code of 2012 for the environmental preservation of the Conservation Units, it can be seen that agribusiness has benefited, since there

have been flexibilities in the regulation of Permanent Preservation Areas and Legal Reserves, as well as the exemption of the latter from registration in the registration of the property and the need for registration in the Rural Environmental Register, which represents a major innovation for the compatibility of the environment and agribusiness.

It is concluded that the Forest Code in force as of 2012 - Law n. 12.651/2012, made the environmental rights too flexible, decreased the extension of protection of the Permanent Preservation Area and Legal Reserve, besides granting amnesty to those who illegally deforested the prohibited area until mid-2008, generating a suppression of the forest rights acquired.

IV. CONCLUSION

It is noted that the Conservation Units and the Cerrado biome are essential areas for the great biodiversity of plant and animal species in Brazil, and therefore there must be effective conservation of natural resources.

There are innumerable reflections of the immoderate exploitation of agribusiness for the environment, as well as the importance of complying with what is established in the Brazilian Forest Code of 2012 and its extravagant legislation.

Thus, changes in legislation have a significant impact on agribusiness and the environment, and the rules on the preservation and regularization of the Conservation Units have brought about the possibility of recomposing environmental damage by adhering to the Environmental Regularization Program and registering with the Rural Environmental Registry, which has become mandatory and dispensed with the registration of the Legal Reserve area in the property registry.

It is concluded that the Brazilian Forest Code - Law n. 12.651/2012 made the environmental rights too flexible, reducing the extension of protection of the Permanent Preservation Area and changing the calculation of the Legal Reserve, besides granting amnesty to those who illegally deforested the prohibited area until mid-2008, generating a suppression of the forest rights acquired and benefiting the Brazilian agribusiness sector. However, this legislation is an effective mechanism in environmental preservation and agribusiness, since it has enabled the regularization of numerous rural properties.

REFERENCES

- [1] AMADO, F. Environmental Law. 11th ed. Salvador: Juspodivm, 2020. 1056 p.

- [2] ANTUNES, P. B. Environmental Law. 20th ed. São Paulo: Atlas, 2019. 1079 p.
- [3] BRAZIL. 1988 Constitution of the Federative Republic of Brazil. Brasília, 1988. Disponible at: <http://www.planalto.gov.br/ccivil_03/Constituicao/ConstituicaoCompilado.htm>. Access on: 04 Jan. 2020.
- [4] BRAZIL. Decree No. 7.830, October 17, 2012. Provides on the Rural Environmental Cadastre System, the Rural Environmental Cadastre, establishes general rules for the Environmental Regularization Programs, which is dealt with in Law No. 12.651, May 25, 2012, and makes other provisions. Brasília, 2012. Disponible at: <http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2012/Decreto/D7830.htm>. Access on: 20 Aug. 2020.
- [5] BRAZIL. Law No. 12.651, of May 25, 2012. Provides on the protection of native vegetation; amends Laws 6.938 of August 31, 1981, 9.393 of December 19, 1996, and 11.428 of December 22, 2006; revokes Laws 4.771 of September 15, 1965, and 7.754 of April 14, 1989, and Provisional Measure 2.166-67 of August 24, 2001; and makes other provisions. Brasília, 2012. Disponible at: <www.planalto.gov.br/ccivil_03/_Ato2011-2014/2012/Lei/L12651.htm>. Access on: 13 Mar. 2019.
- [6] BRAZIL. Law No. 9.605, of February 12, 1998. Provides on the penal and administrative sanctions derived from conducts and activities harmful to the environment, and makes other provisions. Brasília, 1998. Disponible at: <http://www.planalto.gov.br/ccivil_03/leis/19605.htm>. Access on: 20 Aug. 2020.
- [7] BRAZIL. Law No. 9.985, of July 18, 2000. Regulates art. 225, § 1, clauses I, II, III and VII of the Federal Constitution, institutes the National System of Nature Conservation Units and makes other provisions. Brasília, 2000. Disponible at: <http://www.planalto.gov.br/ccivil_03/LEIS/L9985.htm>. Access on: 13 mar. 2019.
- [8] BRAZIL. Law No. 12.727, of October 17, 2012. Alters Law no. 12.651, of May 25, 2012, which provides for the protection of native vegetation; alters Laws nos. 6.938, of August 31, 1981, 9.393, of December 19, 1996, and 11.428, of December 22, 2006; and revokes Laws nos. 4.938, of August 31, 1981, 9.393, of December 19, 1996, and 11.428, of December 22, 2006. 771, of September 15, 1965, and 7.754, of April 14, 1989, the Provisional Measure no. 2.166-67, of August 24, 2001, item 22 of item II of art. 167 of Law no. 6.015, of December 31, 1973, and paragraph 2 of art. 4 of Law no. 12.651, of May 25, 2012. Brasília, 2012. Disponible at: <http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2012/Lei/L12727.htm>. Access on: 13 Mar. 2019.
- [9] BRAZIL. Law No. 18,104 of July 18, 2013. It provides for the protection of native vegetation, institutes the new Forest Policy of the State of Goiás and makes other provisions. Brasília, 2013. Disponible at: <http://www.gabinetcivil.go.gov.br/pagina_leis.php?id=10899>. Access on: Feb. 11, 2020.
- [10] BORLACHENCO, N. G. C. et al. Analysis of the economic and environmental repercussion of the legal reserve: case study. Review of Agricultural Sciences, Lisbon, v. 37, n. 3, p. 299-305, sep. 2014. Available at: <http://www.scielo.mec.pt/scielo.phpscript=sci_arttext&pid=S0871018X2014000300006&lng=pt&nrm=iso>. Access on: 04 Apr. 2020.
- [11] BURANELLO, R. Handbook of Agribusiness Law. 2nd ed. São Paulo: Saraiva, 2018, 344 p.
- [12] CÉSARO, S. G. F. The Rural Environmental Register and the Regularization of Degraded Areas in Brazil: Analysis with Focus on the Changes brought about by the Federal Constitution. In: LARA MARTINS, R.; COELHO, S. P. (coord). Law and Sustainability in the 30 Years of the Constitution: Experiences and Challenges in the Scope of Environmental, Urban, Mineral and Agrarian Law. Florianópolis: Editora Tirant Lo Blanch. v. 05, p. 161-191, 2018. Disponible at: https://files.cercomp.ufg.br/weby/up/949/o/volume_5.pdf. Access in 07 Jun. 2020.
- [13] CÉSARO, S. G. F.; FERREIRA, R. M. Brazilian Forest Code: The Rural Environmental Register and Regularization of degraded areas applied in a case study. Goiânia: Kelps, 2018, p. 45.
- [14] EMBRAPA. Agriculture and Environmental Preservation: An Analysis of the Rural Environmental Cadastre, 2018. Disponible at: <<https://www.embrapa.br/car/resultados>>. Access on: 02 jun. 2020.
- [15] FERREIRA, R. M. Et al. Sustainable Development and Perspectives on Agribusiness in the State of Goiás. In: SILVERIO JR., J.P; FERREIRA, R. M; LINO, E.N.S. (org.). Agribusiness Law: Sustainability, Regulation and Development. Goiânia: Kelps, 2019. p. 119-159.
- [16] JÚNIOR, W. E.; MACHADO, L. D. L. Environmental Licensing and Agribusiness. In: SILVERIO JR., J.P; FERREIRA, R.M (org.). Agribusiness Law: interdisciplinary applications. Goiânia, Kelps, 2017. p. 253-269.
- [17] KLINK, C.; MACHADO, R. B. Conservation of the Brazilian Cerrado. Magazine Megadiversidade. v. 01, n. 01, p. 147-155, July. 2005. Disponible at: <https://www.agencia.cnptia.embrapa.br/recursos/Texto_A_dicional_ConservacaoID-xNOKMLsupY.pdf>. Access on: Feb. 23, 2019.
- [18] LIMA, L. L. S.; FERREIRA, R. M. Forest Code: Reflexes of the Suppression of Permanent Preservation Zones in the Cerrado of the Ceres Goiás Microregion. In: LARA MARTINS, R.; COELHO, S. P. (coord). Law and Sustainability in the 30 Years of the Constitution: Experiences and Challenges in the Scope of Environmental, Urban, Mineral and Agrarian Law. Florianópolis: Editora Tirant Lo Blanch. v. 05, p. 161-191, 2018. Available at: https://files.cercomp.ufg.br/weby/up/949/o/volume_5.pdf. Access on: 29 Jul. 2020.
- [19] LIMA, F. W.; FERREIRA, R. M. New Code Forest: Release for the registration of the Legal Reserve in the Property Registration. Legal Magazine. Curitiba:

Unicritiba, v. 01, n. 50, p. 343-373, jan./mar. 2018. DOI: 10.6084/m9.figshare.6019778. Disponível at: <<http://revista.unicritiba.edu.br/index.php/RevJur/article/view/2554>>. Access in: 13 Sep. 2019. MAP - MINISTRY OF AGRICULTURE, PECUARY AND SUPPLY. Brazilian Agriculture in Figures, 2019. Available at: <<https://www.gov.br/agricultura/pt-br/assuntos/politica-agricola/outras-publicacoes/201902-agropecuaria-brasileira-em-numeros/view>>. Access on: 02 Sep. 2019.

- [20] MOREIRA, B. O. S. Constitutional Model of Environmental Protection and the Instruments for Conservation and Sustainable Use of the Cerrado. In: LARA MARTINS, R.; COELHO, S. P. (coord). Law and Sustainability in the 30 Years of the Constitution: Experiences and Challenges in the Scope of Environmental, Urban, Mineral and Agrarian Law. Florianópolis: Editora Tirant Lo Blanch. v. 05, p. 161-191, 2018. Available at: https://files.cercomp.ufg.br/weby/up/949/o/volume_5.pdf. Access on: 29 Jul. 2020.
- [21] MILARÉ, E. Environmental Law. 11^a ed. São Paulo: Review of the Courts, 2018, 1824 p.
- [22] OLIVEIRA, B. S. Et al. Politics of Agriculture and Environment: The Case of the Southwest Goiano. In: SILVERIO JR., J. P; FERREIRA, R. M; LINO, E.N.S. (org.). Agribusiness Law: Sustainability, Regulation and Development. Goiânia: Kelps, 2019. p. 249-276.
- [23] SEAPA - SECRETARIA DE ESTADO DE AGRICULTURA, PECUÁRIA E ABASTECIMENTO DO GOVERNO DO ESTADO DE GOIÁS. Agro in Data. Disponível at: <https://www.agricultura.go.gov.br/files/AGRO_EM_DAD_OS_-_DEZEMBRO.pdf>. Access on: 31 Aug. 2020.
- [24] SOBREIRA, P. A.; FERREIRA, R. M. Environmental damage from tailings dams in the state of Goiás. Goiânia: Kelps, 2017. 123 p.
- [25] ZAKIA, M. J.; PINTO, L. F. G. Guide for the application of the new forestry law in rural properties. 2nd ed. Piracicaba: Imaflora, 2014. 36 p. Disponível at: <www.ipef.br/publicacoes/Guia_Aplicao_Nova_Lei_Flores_tal_2a_edicao.pdf>. Access on: 25 nov. 2019.