


**WHEN IS THERE
LIABILITY FOR
COLLECTIVE
ENVIRONMENTAL
MORAL DAMAGES?**

SWIPE TO THE SIDE

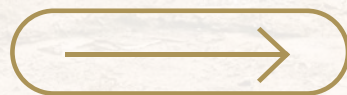




In the judgment of **Special Appeal No. 2.200.069**, the Brazilian Superior Court of Justice (STJ) established criteria for recognizing **collective environmental moral damages**.

The decision is significant for environmental law, as it sets parameters that shall guide future judicial rulings.

Swipe to learn more about the decision.



WHAT IS THE **CASE ABOUT?**

The case concerns a **Public Civil Action (ACP)** filed in connection with alleged **illegal** deforestation carried out without the required environmental authorization.

At first instance, the defendant was ordered to:

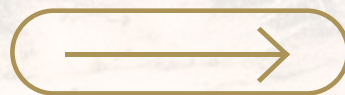
- (i)** restore the degraded area; and
- (ii)** pay compensation for **collective environmental moral damages**.



On appeal, the court recognized the **illegality of the deforestation** and upheld the **obligation to restore the environment**.

However, it overturned the award of collective environmental moral damages on the grounds that:

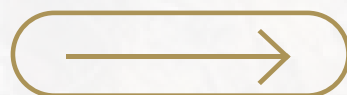
- (i) actual harm to the community would need to be proven; and
- (ii) the case involved environmental damage of minor significance.



AND WHAT DID **THE STJ DECIDE?**

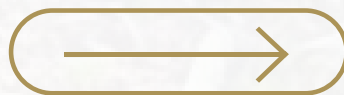
The First Panel of the STJ reinstated the conviction for **collective moral damages** arising from **illegal deforestation**.

The ruling established that, even in small-scale cases, the suppression of native vegetation may give rise to collective environmental moral damages, as it **violates the environment**, a public-interest asset, and contributes to the **degradation of the biome**, especially in the **Legal Amazon**.



The STJ also emphasized that **collective environmental moral damages** are presumed, a legal concept known as ***in re ipsa***.

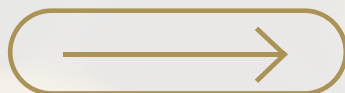
This means that it is not necessary to prove suffering or emotional distress on part of the community. For such damages to be established, it is sufficient that a **unlawful conduct against the environment** has occurred.

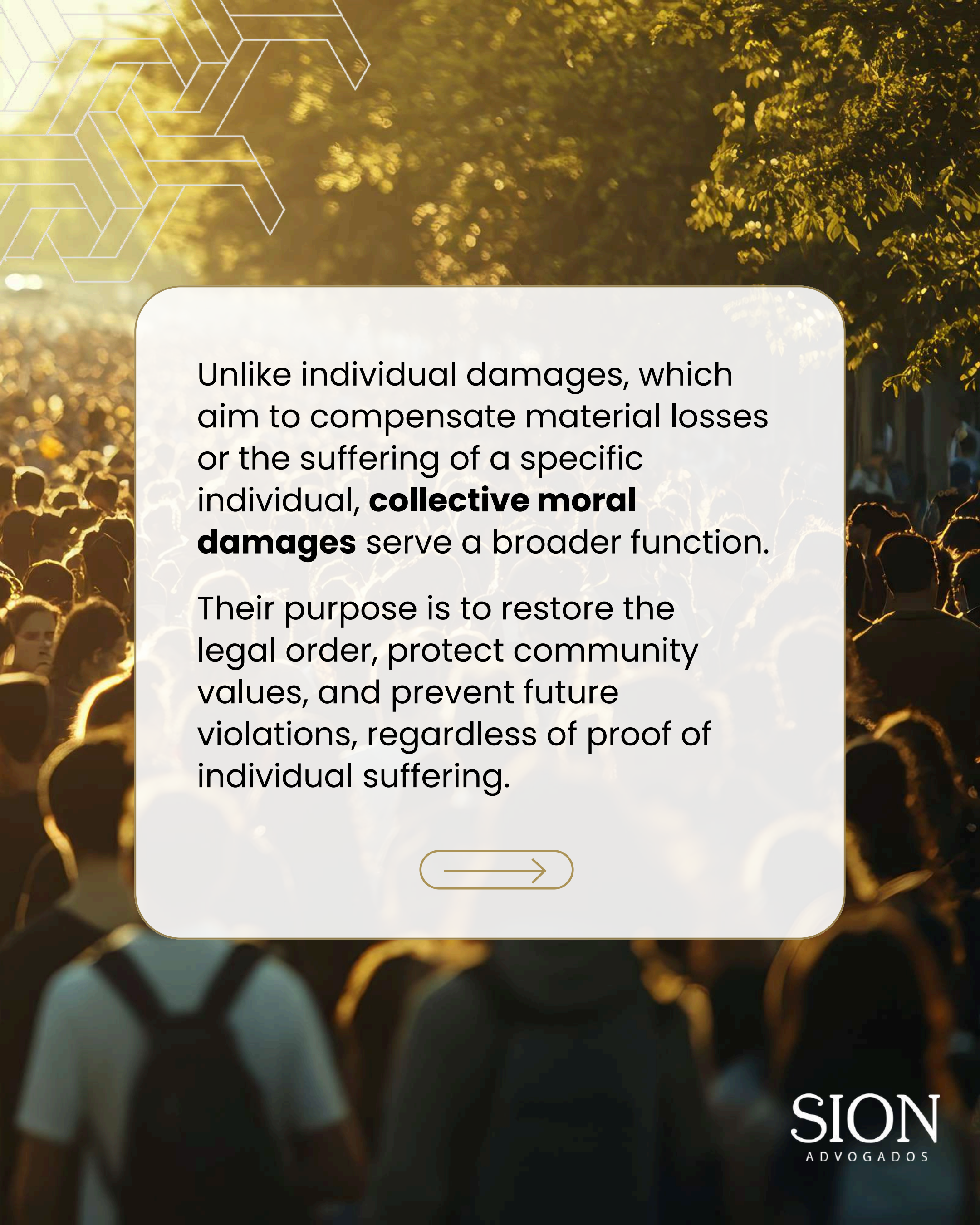


BUT WHAT ARE COLLECTIVE **MORAL DAMAGES?**

Collective moral damages can be defined as harm to intangible values shared by a group or by society as a whole, resulting from the violation of diffuse or collective rights.

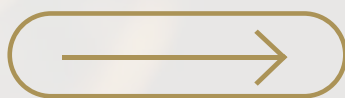
Environmental harm resulting from unlawful conduct is one of the most common examples of collective moral damages.





Unlike individual damages, which aim to compensate material losses or the suffering of a specific individual, **collective moral damages** serve a broader function.

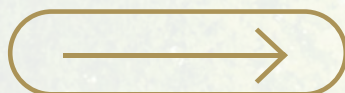
Their purpose is to restore the legal order, protect community values, and prevent future violations, regardless of proof of individual suffering.



KEY POINTS ADDRESSED

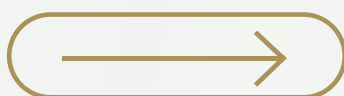
One of the most notable aspects of the ruling is its detailed analysis of various **environmental law** concepts used to support the decision.

Throughout the judgment, different principles and doctrines of environmental law are discussed, allowing for a deeper understanding of the STJ justices' interpretation of these issues.



WHAT HAS THE **STJ DECIDED**

- 1 The Amazon** is national heritage site with reinforced constitutional protection.
- 2 The illegal suppression** of vegetation in the Amazon violates a collective legal asset.
- 3 Collective environmental moral damages** are presumed (*in re ipsa*).
- 4 The extent of the deforested area** does not prevent the recognition of collective moral damages.
- 5 The analysis of damages** must be joint, not fragmented.
- 6 The reversal of the burden of proof** in favor of environmental protection may be applied (STJ Precedent 618).



CRITERIA FOR LIABILITY FOR **MORAL DAMAGES**

In addition to overturning the decision of the lower court, the STJ also established **seven criteria for the award of collective environmental moral damages.**



1 **Collective moral damages** do not arise from a mere breach of the law, but from the practice of conduct that is unlawful and effectively harmful to the environment.

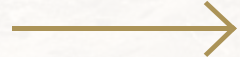
2 **Collective environmental moral damages** are assessed objectively and are presumed, without requiring proof of pain or suffering on part of the community.

3 Once environmental degradation is established, **collective moral damage** is presumed, and it is up to the offender to prove that the harm did not occur or that its impact was negligible, in accordance with the criteria set forth in environmental legislation.

4 The physical restoration of the degraded area, whether natural or artificial, does not eliminate the **extrapatrimonial damage** already caused to the community.



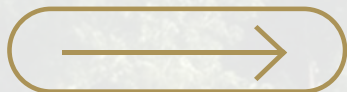
- 5 The non-material harm to the environment must be assessed **jointly**, taking into account the combined effect of the conduct of different agents, **each of whom is liable in proportion to their degree of fault.**
- 6 When recognizing the duty to compensate, **the amount of reparation must be determined according to the specific circumstances of the case**, taking into account the offender's contribution, their economic situation, the extent and duration of the harm, the degree of fault and the benefit obtained from the unlawful conduct.
- 7 In biomes protected as national heritage, environmental protection is reinforced, and **any action or omission that affects their integrity gives rise to collective moral damages**, regardless of the extent of the affected area.

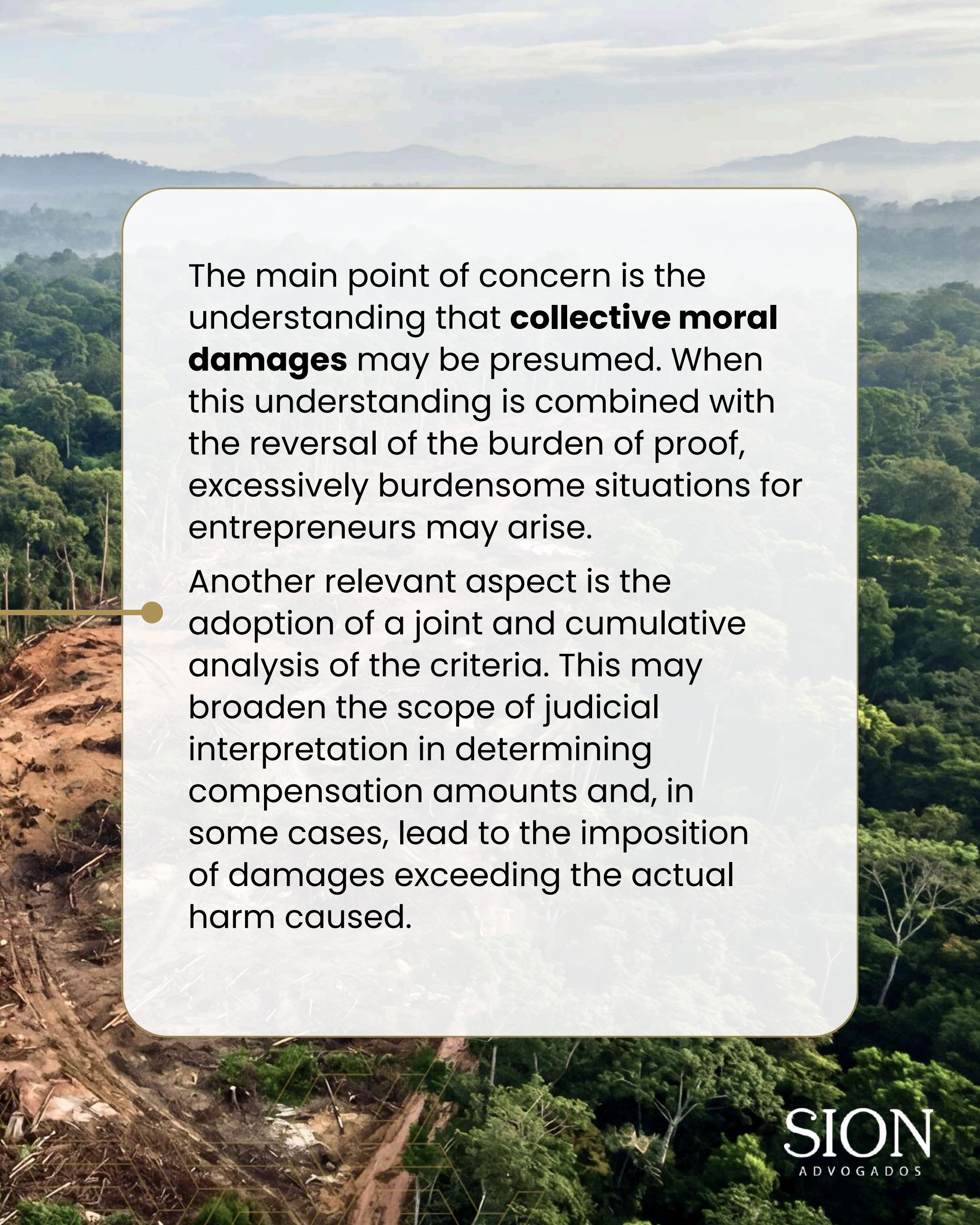


FINAL CONSIDERATIONS

The STJ's decision in **Special Appeal No. 2.200.069** represents an important development, as it brings greater clarity to the situations that may justify liability for **collective environmental moral damages**.

Although the establishment of criteria is positive for enhancing the predictability of judicial decisions, **some aspects of the ruling deserve critical reflection**.





The main point of concern is the understanding that **collective moral damages** may be presumed. When this understanding is combined with the reversal of the burden of proof, excessively burdensome situations for entrepreneurs may arise.

Another relevant aspect is the adoption of a joint and cumulative analysis of the criteria. This may broaden the scope of judicial interpretation in determining compensation amounts and, in some cases, lead to the imposition of damages exceeding the actual harm caused.