INTERNATIONAL ASSOCIATION OF YOUNG LAWYERS

Rights of Minority Shareholders

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National Report of Brazil

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INTRODUCTION

A shareholder without voting strength or power to influence decision making on his own it's considered a minority shareholder. To be a minority shareholder could be tricky when it comes to protect your investment and its fruits. To avoid abuses from the majority, rules to protect minorities have been put in place in many jurisdictions. As for example, shareholder's agreements, the right of minorities to appoint a Director or other officers, rights to sell or buy shares at a fair value, the right to convene general assembly's, the right to get information from the management, etc.

Somehow, these rights may get in conflict with a fast decision making capability, impairing the management or the majority shareholders, which in turn may be a form of abuse from the minorities.

Therefore we would like to find out how these minority rights are handled in different jurisdictions.

1. Current scenario at your jurisdiction:

1.1. How and to what extent are *minority shareholders* protected in publicly and privately held corporations in your country, either as to legal or firm level protection?

Minority shareholders have their protection provided by Law n. 6.404 of December 1976 as amended by Law no. 9,457 of May 5th, 1997 and Law 10.303 of 31, October 2011.

In brief remarks, these rights are:

- The right to participate in the profits (provided for in Article 109 of the LSA).
- Supervision of law (referred to in Art. 109, item III of the LSA[1]).
- Right to information (referred to in Art. 124, item III of the LSA).
- To preemptive rights to subscribe for shares in the capital increase (governed by Articles 15 and 17 of the LSA).

1 LSA: Brazilian Corporate Law

- Right of recess (referred to in Articles 136 and 137 of the LSA).
- Right to vote (under Article 111 of the LSA).
- The right to appoint members of the board (referred to in Article 141, Articles 163, 164 and 165 of the LSA).
- Right to request the call and the postponement of general and special meetings (referred to in Article 124 of the LSA).

In addition, it should be noted that minority shareholders have protection in the business context for the implementation of Corporate Governance.

Preventive practices:

- Shareholders' Agreement (disciplined by art. 118 of the LSA).
- Tag Along (provided for in article 254-A of the LSA).
- Comply or Explain.
- Shark Repellents.
- Staggered Board.
- Supermajority rules.
- Accelerated loans.
- Golden Parachutes.

Reprehensible practices:

- Greenmail.
- Pac-man Defense.
- White Knights.
- White Squire.
- Crown Jewel Defense.
- Posion Pill.

1.2. Do they have in essence real choices, or are the ones that are in the hands of the dominant group, either managers or major shareholders, or are they restricted to those that do not challenge the majority power, representing the status quo?

Minority shareholders have various rights provided by law and by the practices of Corporate Governance. However, we understand that they have the right to oversee the company's majority shareholders, decisions and administrators.

To RAYES (RAYES, 2003, p. 103) "the paragraph 4 of article 141 of Law n. 10.303/2001 introduced innovation that positively affects minority shareholders and the holders of preferred shares, to determine their participation in the composition of the Board of Directors by the company, through the election of a director. Thus, the representatives of 15% of total shares with voting rights and preferred limited voting or non-voting, representing 10% of the company's corporate capital may each elect one member and an alternate member to the Board in voting held separately from the General Meeting excluded the controlling shareholder. ".

In addition, the law 10.303 / 2001 renewed the supervisory role of the Audit Committee and increased opportunities for the counselor act individually. RAYES indicates (RAYES, 2003, p. 103) such actions:

- Supervise the actions of management and verify compliance with their legal and statutory duties (Article 163, I).
- Report to the administration, and if they remain inert, to the General Assembly, errors, frauds or crimes found and suggest useful measures to the company (Article 163, IV).
- Present and read the opinions and representations in the General Assembly, irrespective of publication and even if that the topic is not on the agenda (Article 164, single paragraph).
- Request clarification or information from management related to the supervisory role, as well as financial and accounting statements (Article 163, paragraph 2).

1.3. Has the law and precedents of your country evolved in ways that increase *minority shareholders* ability to defend against expropriation by those in control (misuse of assets, reallocation of profits, transfer pricing, etc.) ?

In Brazil, lawmakers sought to protect the minority shareholders through the last two reforms of the Corporate Law. The last reform in 2001, reintroduced *Tag Along* and raised the minimum mandatory dividend for preferred shares, higher than those of the shares entitled to vote. Some improvements (SALAMA, PRADO, 2011, p. 7) included "a public offer to minority shareholders in case of delisting, the inclusion of clauses prohibiting and expressly criminalizing the practice of *insider trading* and the increase of representation of minority and preferred shareholders on the Board."

As for the legal issues surrounding the matter, it can be seen that most of the questions are related to minority shareholders, however, the Brazilian judiciary has took long years to analyze such processes. As research by Viviane Muller Prado and Vinicius Buranelli indicated in the scientific article by Bruno M. Salama and Viviane Muller Prado (SALAMA, PRADO, 2011, p. 28).

"To analyze trends and identify patterns in the Brazilian case is not easy. The country does not follow the principles of *stare decisis*, and decisions in opposite directions in business cases are quite common. Furthermore, the availability of decisions on the Internet varies based on the judging instance, with the surveyed Court and the state in which they are located, which decreases transparency. This situation reinforces the usefulness of statistical analysis of jurisprudence. In a recent study, Viviane Muller Prado and Vinicius Buranelli analyzed 50 cases and 92 resources[2] that took care of the protection of minority. This sample was harvested between 1998 and 2005 by decisions of the Court of São Paulo. 122 The choice of this Court is justified because it is in São Paulo, which is located the only stock exchange in activity in the country (Bovespa) and as the headquarters of most companies listed on it.

An important point that this research shows is what is the characteristic of people who access the judiciary to complain corporate matters. Most cases (66%) was taken to court by individuals, and institutional investors proposed action in only 18% of cases. Then came the legal entities (14%) and the prosecutor (2%). This result contradicted the expectations of researchers, since the absence of a public civil action mechanisms, as well as problems of "rational ignorance" 123 suggest that institutional investors - that support greater risks and are better informed than individual investors - would be applicants in most cases. One explanation for this could be that institutional investors have sufficient powers to make political agreements with the controlling groups, which makes unnecessary the way to court, or perhaps it has something to do with the nature of the request. The companies themselves appeared as defendants in most cases (88%). As expected, the controlling

[2] The Supreme Court also has jurisdiction to determine the constitutionality of statutes *in abstracto*. Also check Sato, Miyuki (2003). Judicial Review in Brazil. Nominal and Real. Global Jurist Advances: Vol. 3: Iss. 1, Article 4. Available in: www.bepress.com/gj/advances/vol3/iss1/art4. See also Joaquim Barbosa. Reflections on Brazilian Constitutionalism. 12 UCLA J. Int'l L. & For. Aff. 181 (2007).

shareholders were defendant in only 10% of cases, while administrators, in only 2%. In an environment in which private benefits of control tend to be high, the small amount of cases against controlling shareholders seems to suggest that the specific regulations are weak when it comes to controlling shareholders, or the probability that a plaintiff can prove allegations against controlling shareholders is low. This result on the parties litigating in court decisions, largely explained by the materials that are brought to the state matter. The research showed a large proportion of cases in which shareholders claimed pecuniary individual rights (24%), ie dividend rights, right of withdrawal and complaints about improper sales roles by brokers. Then appeared the rights of election related accountability and information (18%) and capital increase (16%). In only 6% of cases the object of the action was the responsibility of management and controlling shareholders. Another relevant fact refers to the time of the decision, ie entry in the first instance to the final decision of the Special Appeal and grievance decided by the Superior Court of Justice (STJ). In cases where this information could be retrieved (in only 18 of the sample), it was found that the observed term average was around, about seven and a half years. Another relevant point is the difference in processing time, in corporate matters, in the first and second instance. It was found that the minimum time was 233 days (less than one year) and the maximum time was 3.99, i.e. more than 10 years. Obviously, this difference can occur due to the complexity of each case. Still, institutionally the difference between the minimum and maximum length is too long.".

1.4. Is the legal dimension the prevalent one in the Corporate Governance (CG) atmosphere, or is the firm level CG the common manner to protect minorities?

In Brazil, we can say that the law, the supervision of the CVM and the Judiciary prevail in relation to corporate governance as a more effective means of protection for minority shareholders. The performance of CVM is very relevant to solve cases involving minority shareholder. Below you can find an elaborate research (SALAMA, PRADO, 2011, p. 29):

"Out of the Judiciary, is relevant in Brazil sanctioning activity in the administrative process, ie, the Securities and Exchange Commission of Brazil (CVM), responsible for regulating, supervising and punish illegal acts of the securities market. In a recent study, Maria Cecilia Rossi, Viviane Muller Prado and Alexandre Di Miceli analyzed 101 decisions CVM dealing with corporate issues between 2000 and 2006.[3] In the

[3] Maria Cecília Rossi, Viviane Muller Prado and Alexandre Di Miceli, CVM's decisions in Corporate issues from 2000 to 2006, Banking and Capital Markets Magazine, v. 37, 2007, p. 88-106, 2007

Brazilian stock market, approximately one in four investors is an individual [4]. This reinforces the importance of CVM, as "individual shareholders" tend to be less informed and have less bargaining power outside the company's control block.

This research demonstrated that the CVM is, in most cases, responsible for initiating research that may lead to the Administrative Process Sanctioning to punish any market player. In 61 cases (around 60%), CVM learned of irregularities on its own initiative. Only in 29 cases the CVM began research for notification of minority shareholders by investors in some other type of security that are not shares or associations representing the interests of investors. Furthermore, in 4 cases the CVM worked for notification of the Central Bank, in 3 cases for notification of a member of the Supervisory Board, and in one case by a joint notification of the board and the company. In seven other cases, CVM started the investigation process.

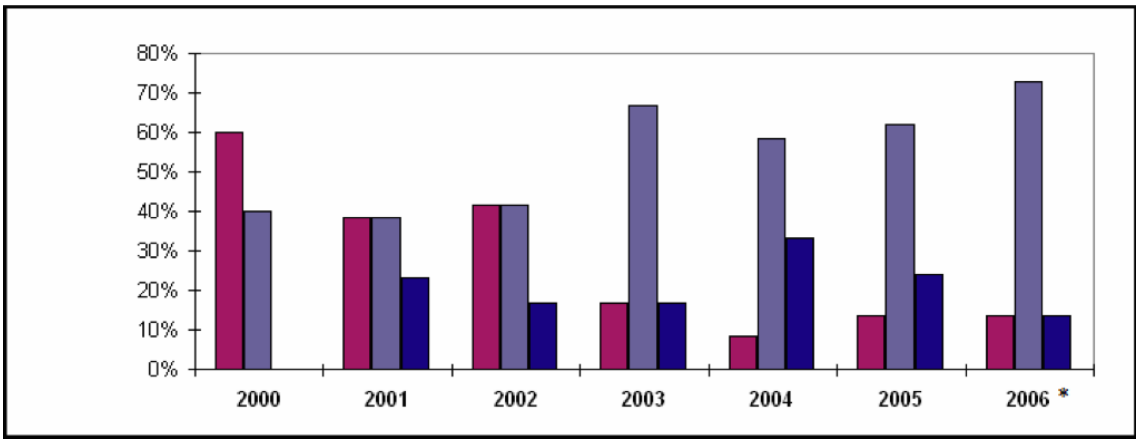
Officers, directors and controlling shareholders were the main targets of the administrative processes of the CVM. Here is a relevant distinction as to legal proceedings, in which the company itself is often the offender. In this sense, the CVM initiated proceedings against 80 officers, 66 against directors, 40 against controlling shareholders, 11 against and 27 auditors from other market players that do not fit into any of these categories.

The time lapse between the date of the offense and the completion of the administrative procedure is on average 6 years. Despite the investments that have been made by the government with the CVM, the study identified a reduction in the length of procedures.

Breaches of disclosure requirements, control abuse of power and conduct of the directors were the themes that appeared more often in administrative procedures. The high number of problems involving disclosure can be explained partly by the fact that this type of infraction be more easily detected by the CVM, which does not mean that these problems are the most relevant. In addition, the level of acquittal of those involved in dissemination of problems is quite high.

The chart below shows that the proportion of convictions has increased over time for some groups and decreased for others. This is due to change in the pattern of notifications by the CVM, which is summoning a large number of people who may be potentially involved in any scheme, even if it does not have evidence against any of them to start the procedure.

[4] www.ini.org.br/ini/site/informativo/Informativo_janeiro_2006.pdf.



Most of the reasons for the acquittal of the accused was the inapplicability of legal provisions specific to the conduct that gave rise to the investigation, the lack of responsibility on the part of the defendant as to the conduct for which he is accused, and lack of evidence. The cases of insider trading have a high level of acquittal, and that probably is because they are more difficult to prove. Where there was conviction, the penalties applied were financial (fines).

The relatively low levels of judicial enforcement and uncertainties that permeate the corporate issues contributed to the expansion of alternative methods of dispute resolution, especially arbitration. Historically, Brazilian courts have been reluctant to arbitration. Therefore, the 2001 reform expressly allowed the statutes elect arbitration to resolve disputes involving shareholders. In addition, the Bovespa has the use of binding arbitration for companies listed on the Novo Mercado and Nível 2. "

1.5. What is the role of ownership concentration in the protection of the minority?

The ownership concentration in most of the times creates conflicts between controllers and minority shareholders with respect to dividend distributions. In this sense, following article excerpt prepared by SANTOS, ROGERS, LEMES and MACHADO (2009: 36):

"The costs of originating agency conflicts occur not only between controlling shareholders and managers, but also between minority shareholders and majority shareholders. This last conflict arises from the asymmetry of duty resulting from the existence of more than one class of voting or discretionary use of power exercised by the majority against the interests of minority (ANDRADE; ROSSETTI, 2004: 107). Indeed, as are La Porta, Lopez-de-Silanes and Shleifer (1998, 1999), this is the main

agency conflict existing in most countries, including Brazil. With the existence of costs of agency conflicts, there are control mechanisms *ex ante* to the corporate governance process put in place is to align the interests of the parties involved and minimize agency costs. Control mechanisms can be classified into two categories: internal and external. They are part of the external control mechanisms of corporate governance: the legal and regulatory environment; the required accounting standards; the capital markets; the pressures of competitive markets; activism of institutional investors and shareholder activism. La Porta *et al.* (1998) assert, in a study undertaken in 49 countries, the concentration of stock ownership is negatively related to the protection of shareholder rights, and that countries with better legal and regulatory environments tend to have greater dispersion of ownership and value of companies. In Brazil, the main regulatory framework was the reform of Law 6404/76 undertaken in 2001. The approval of Law 10,303 / 2001 resulted from an extensive process, with regard to the scope of the modifications. As Carvalho (2002: 27): the reform of the LSA began as a grand project that sought to readjust the Brazilian legislation to the real needs of a modern capital market and that, in fact, function as a source of funding for companies. "

1.6. Is benchmarking used as a mechanism for minorities to select the country or firm better suited to risk profile and protection from rights deprival?

Benchmarking as a systematic structured process, that has as function the evaluation of methods and best market practices, as well as the valuation and projection of the future performance of a company, can be used as a criterion for choosing a company for small shareholders.

Considering also that these processes may take into account the improvement of minority shareholder's interest, this may be a factor for their participation and company choices.

1.7. Is the formation of group dynamics among dispersed shareholders working in your country?

That practice is still incipient.

1.8. What is the role of market liquidity in the *minority shareholders* exit option?

By the wording of the law n. 10.303/2001, liquidity occurs when the type or class of share or certificate that it represents, integrates the representative general index of securities portfolio admitted to trading in the securities market in Brazil or abroad, defined by the Securities and Exchange Commission (CVM). However, there is also another important concept defined by law - that the dispersion, when the controlling shareholder, the parent company or other companies under its control hold less than half of the species or class of shares. Both concepts must be taken into account for the withdrawal of the dissident partner.

It is worth noting the interpretation of Elaine Moreira Martins de La Rocque and Paula Marina Sarno (2008:7):

"At all events, the changes seem to indicate that, in cases where incorporation, merger or participation in group of companies, has become more difficult not occur the right to withdraw at least for some of the types or classes of shares issued by the company. To avoid this, it should reach both criteria (liquidity and dispersion) simultaneously. Finally, still on the right of withdrawal in merger transactions, particularly when it comes to incorporation controlled by the parent company, we stress the 2001 amendment to Art. 264 of Law 6.404/76.

Notably the paragraph 3 of that Article gave the dissenting shareholder, subject to the liquidity criteria discussed above, in which the exchange relationship offered to minority is less advantageous than that obtained based on the evaluation of the net worth of the companies involved at market prices. Or based on other criteria accepted by the Brazilian Securities Commission, the right to choose to reimburse the value of the net assets stipulated on the basis of such criteria, alternatively to the value set under the Act. Important to notice the previous wording provided the option between the amounts of reimbursement provided by law or the amount equivalent to the average price of shares traded on the market during the 30 days before the decision on the merger.

Thus, it can be assumed that the legislator sought to exclude the possibility of manipulation and consequent contamination of the withdrawal right either: (i) the inherent possibility of manipulation, which could discourage the choice of average share prices or (ii) the possible trend that this right be distorted, causing an excessive exercise of the right, as far as the average price tends to be higher than the market value of an action when operating ad perceived as not very advantageous."

1.9. Have legal reforms in your country given tools to majority to use compliance as an instrument to somehow "legalize" minority expropriation?

No, Brazilian legislation protects the minotity shareholders in many aspects already said. There is a bill (PL n. 7.603/14) that allows the minority shareholders to vote in creditors general meetings in bankruptcy proceedings. The House of Representative creates a comission to analyse this bill of law.

2. Looking forward at your jurisdiction:

2.1. What is the way to avoid *minority shareholders* from suffering mayor shocks, -if applicable in your country- due to restrictive visions as to minority rights, without falling into abuses of minority rights? Is it possible to harmonize both?

The LSA and CVM created mechanisms to protect the minority shareholder. The Corporate Law (Article 117 and first paragraph) indicates the controlling shareholder acts that are considered abuse of power and generates personal accountability, in order to protect the minority shareholder:

- guide the company to any harmful purpose other than the national interest or take it to favor another company, Brazilian or foreign, to the detriment of minority shareholders in profits or assets of the company or the national economy;
- promote thriving company liquidation or transformation, merger or acquisition, in order to obtain for themselves or others, unfair advantage to the detriment of other shareholders, of those working in the company or investors in securities issued by society;
- promote statutory amendment, issuance of securities or adoption of policies or decisions not directed at the company's interest and aim to be detrimental to minority shareholders, working in the company or to investors in securities issued by the company;
- elect administrator or auditor who knows unfit morally or technically;
- induce or attempt to induce administrator or auditor to perform illegal act or not fulfilling their duties defined in this law and the statute, promote, against the interest of the company, its ratification by the general meeting;
- contracting with the company, directly or through another person or a company in which you are interested in fostering conditions or unfair;

- approve or have approved irregular accounts of Administrators, personal favoritism, or cease to investigate the complaint who knows or should know well-founded or justifying suspicion of irregularity;
- subscribe for shares for the purposes of Article 170, holding property opposite to the company's corporate purpose.

There are situations that CVM considers abusive exercise of power and indicates CVM Instruction No. 323/2000 95:

I- denial, in any form, the right to vote attributed, exclusively, by law, by statute or by privatization notice to the holders of preferred shares or to minority shareholders by controlling shareholder who holds shares of the same species and class of voting;

II - the performance of any act of corporate restructuring in the exclusive interest of the controlling shareholder;

III - the disposal of assets, the constitution of collateral, the provision of guarantees and termination, transfer or sale of all or part of business, profitable or potentially profitable activities in the overriding interest of the controlling shareholder ;

IV - to raise funds through debt or through capital increase, the further loan of these resources, in whole or in part, for companies with no corporate relationship with the company, or are related to the controlling shareholder or by him controlled, directly or indirectly, in interest conditions or unfavorable terms in relation to prevailing market, or incompatible with being average profitability of the company's assets;

V - the conclusion of contracts for services, including management and technical assistance, with associated companies to the controlling shareholder or controlled by him, in disadvantageous or incompatible with market conditions;

VI - free use, or on privileged terms, directly or indirectly, by the controlling shareholder or person authorized by them, any resources, services or assets owned by the company or companies controlled by it, directly or indirectly;

VII - the use of affiliates to the controlling shareholder or controlled by him, directly or indirectly, as intermediaries in buying and selling of products or services from the suppliers and the company's customers in disadvantageous or incompatible with market conditions;

VIII - to promote unjustified dilution of minority shareholders through capital increase in quantitatively unreasonable proportions, including by merger, under any form, of associated companies to the controlling shareholder or controlled by him, or of fixing the issue price Share on substantially higher values in relation to trading exchanges or over-the-counter market;

IX - amendment to promote the company's by laws, to include the economic value as a criterion for determining the amount of reimbursement of the shares of the

dissenting shareholders at a general meeting. And the adoption, in the twelve months following the said statutory amendment of assembly decision giving rise to the right of withdrawal, and the value of the smaller refund to which they are entitled dissenting shareholders is considered the previous criteria;

X - block, in any way, directly or indirectly, to the general meeting convened at the initiative of the supervisory board or of non-controlling shareholders;

XI - the promotion of reverse stock split that results in elimination of shareholders, without being ensured by the controlling shareholder, the right to remain integrating the shareholding structure with at least one new unit of capital, if these shareholders have expressed such intention at the time set in the general meeting that approved the reverse stock split;

XII - the establishment of a stock option plan for directors or employees of the company, including the use of shares purchased for treasury, leaving the sole discretion of the plan participants the time of the option exercise and sale, without the effective commitment to achieving results, to the detriment of the company and minority shareholders;

XIII - the purchase or sale of securities issued by the company in order to benefit a single shareholder or group of shareholders;

XIV - the purchase or sale of securities in the market or privately, by the controlling shareholder or persons connected with him, directly or indirectly, in any form, in order to promote, by the controlling shareholder, the cancellation of company registration;

XV - the adoption by the controlling shareholder, of the profit reserve constitution that does not meet the conditions for this constitution, as well as profit retention without a budget, in detail, the reasons for the retention.

Other hypotheses not directly addressed in the LSA (Brazilian Corporate Law) or CVM (Brazilian SEC) Instruction can be treated as a general clause of the obligation to indemnify, contained in the Civil Code, in its articles. 186 and 187, as well as consumer protection code. Brazilian courts have admitted that it is applicable to the minority shareholder the Consumer Code, both by their vulnerability, and by its situation with someone who has all the relevant information about the relationship.

In this case the logic that applies is that the action is offered to investors by someone who will manage your values, being the agent manager responsible for all its acts and that can cause harm to shareholders, even minority.

2.2. Is *minority shareholders* activism taking place in your country, and to what extent?

Yes, both the LSA (Brazilian Corporate Law) and CVM (Brazilian SEC) already have expertise in this regard, as answered in the previous question.

2.3. What is the trend in your country for the protection of *minority shareholders*?

Based on the current legislation cited above and in general obligation to indemnify the Brazilian law, there are already reports of minority shareholders who sought the Brazilian courts to charge the losses in the value of the shares of Petrobras, by accusations of corruption.

2.4. What is the impact of the Sarbanes-Oxley Act (SOX) in your country, as a canon to regulate domestic capital markets and CG?

The Sarbanes-Oxley Act (SOX) is mandatory solely for Brazilian companies that are present in the international market. However, some rules were already applied by the CVM and under Brazilian law. In this sense, it is worth highlighting the understanding of Liliana Horatio Silva Rezende (2008: 661):

"While the SEC controls and monitors the guidelines set for the North American market in Brazil CVM also underscores the need to preserve the good practice of Corporate Governance. Some rules outlined by the Sarbanes Oxley were already present in the Brazilian legislation, Law 10.303 / 01, which deals with corporate law. As an example, note that the administrator's responsibility with respect to the financial statements is present in Articles 142 and 176 of Law n. 6404/1976. On this regard, the auditor cannot perform consulting to the company that he audits, it also had been predicted in Brazil, in order to avoid the loss of objectivity and independence, according to IN - CVM 308/1999. While US law requires the creation of an audit committee, Brazilian companies can replace it with a Supervisory Board (SANTOS, 2004, p. 9-10).

It is noteworthy that, in the Brazilian market, this structure is not mandatory. The CVM's Handbook of Corporate Governance indicates that shoul be conducted quarterly by the company a report analyzing the results and risks that influenced. In this sense, the Sarbanes Oxley Act is rigid in requiring quarterly reports with certification of managers. In Brazil, the managers civilly liable for the damage they cause to the company when acting beyond its function. US law requires, in addition to civil liability, prison sentences and fines. Passage of the law in the United States

obviously impacted Brazilian companies with shares released in the US capital market, leading the discussion on the best way to fitness. The companies that still plan to enter this market also seek to adapt to the demands. Large Brazilian public companies are already adapting to the practices pointed out by CVM Guidebook of Corporate Governance, which suggests ethical and management principles. For those who followed the ideals of good governance, Sarbanes Oxley Act would have no impact either, generating just a few changes that could be implemented more easily. The challenge would be with companies that still retain other structures that have not opted for a management that gives priority to good corporate governance, social responsibility, transparency and respect for investors. ".

2.5. Do you think it advisable to rescue the concept of "Popular Capitalism", as defined in the fifties by the great jurist Joaquin Garrigues, in view of the present circumstances regarding status of minorities?

The popular capitalism depends on greater disclosure to the small investor. In Brazil, the application of ethical principles and good management demonstrated periodically with transparency and to demonstrate to shareholders the risks inherent in business activity, expanding its market share.

2.6. What should be the role of minorities as to the flaws of executive pay packages that reflect structural problems in underlying governance agreements, as pointed out by Lucian Bebchuk, Harvard Law Professor ?

In Brazil, as discussed above, if demonstrated that management did not comply with good practices, you can blame the administrator, including the concept of general clause of the obligation to indemnify, contained in the Civil Code, in its articles. 186 and 187 and also mentioned in the Consumer Protection Code, as reported above.

3. Precedent cases at your jurisdiction:

3.1. Please report some recent judicial cases regarding *minority shareholders* issues.

RECURSO ESPECIAL. AÇÃO COLETIVA CONSUMERISTA. CONTRATO DE PARTICIPAÇÃO FINANCEIRA. PRETENSÃO À RETRIBUIÇÃO ACIONÁRIA. RELAÇÃO DE CONSUMO CONFIGURADA. DEMANDA JURIDICAMENTE POSSÍVEL. APLICAÇÃO DO CDC . - Acionistas minoritários da Brasil Telecom, adquirentes em condomínio de assinaturas telefônicas, buscam a devida retribuição em ações da Companhia, além da indenização do valor equivalente às açõessonegadas, acrescido de danos emergentes e lucros cessantes. - Esta Corte entende que o Código de Defesa do Consumidor incide na relação jurídica posta a exame, porquanto, não basta que o consumidor esteja rotulado de sócio e formalmente anexado a uma Sociedade Anônima para que seja afastado o vínculo de consumo. - Além da presença de interesse coletivo existe, na hipótese, a prestação de serviços consistente na administração de recursos de terceiros, a evidenciar a relação de consumo encoberta pela relação societária. Recurso Especial conhecido e provido.

(Superior Tribunal de Justiça - Recurso Especial REsp 600784 RS 2003/0188048-6)

APPEAL. CONSUMERIST COLLECTIVE ACTION. FINANCIAL PARTICIPATION AGREEMENT. CLAIM OWNERSHIP TO FEES. CONFIGURED CONSUMER RELATIONSHIP. DEMAND LEGALLY POSSIBLE. CONSUMER LEGISLATION APPLICATION. - Minority shareholders of Brazil Telecom, acquirers of phone subscriptions, seek proper compensation in shares of the Company, as well as compensation of equivalent value to the shares withheld, plus damages and lost profits. - This Court finds that the Consumer Protection Code addresses the legal relationship under review, because it is not enough that the consumer is labeled partner and formally attached to a corporation to eliminate the bond of consumption. - In addition to the presence of collective interest, exists in the case, the provision of consistent services in the management of third party resources, demonstrating the consumer relation hidden by corporate relationship. This Court grants an appeal .

(Superior Court of Justice - Recurso Especial REsp 600784 RS 2003/0188048-6)

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INTERNATIONAL ASSOCIATION OF YOUNG LAWYERS

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- Your body text needs to be Garamond, Size 12.
- If you need to display a list, you may use bullet points or letters in lowercase.
- For the use of footnote, you can use the style available here[5].

- **Headings**

Heading 1, Font: Garamond, Size 14, Bold

Heading 2, Font: Garamond, Size 12, Bold

- **Body text**

Read here your body text in Garamond, Size 12.

- **Lists**

A list can be displayed with letters in lowercase:

a. Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore

b. et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat.

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BIBLIOGRAPHY

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- Doe, John B. *Conceptual Planning: A Guide to a Better Planet*, 3d ed. Reading, MA: SmithJones, 1996.
- Doe, John B. *Conceptual Testing*, 2d ed. Reading, MA: SmithJones, 1997

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