


## PUBLIC POLICIES AND THE CONFRONTATION OF INEQUALITIES IN BRAZIL – CONSTITUTIONAL TELEOLOGY VERSUS ECONOMIC AND SOCIAL RESISTANCE: THE LONG ROAD

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### ABSTRACT

This study analyzes the effectiveness of public policies in addressing inequalities in Brazil, in the light of constitutional teleology, highlighting the main economic and social barriers. The central question is to understand what are the main obstacles to the effective implementation of public policies aimed at reducing inequalities in Brazil. The research adopts a qualitative and exploratory approach, based on bibliographic and documentary research. The analysis revealed that, although the 1988 Constitution provides a robust normative basis for social equality, budgetary limitations and the influence of neoliberalism, together with social and cultural resistance, compromise the realization of social rights. The results indicate that overcoming these barriers requires a reassessment of the State's economic priorities and a continuous effort to combat social resistance. Future studies should continue to explore the interactions between economic policy, social resistance, and constitutional rights, aiming at the construction of more effective and inclusive public policies.

**Keywords:** Inequalities. Social rights. Public policies. Economic resistance. Constitutional teleology.

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## INTRODUCTION

Confronting inequalities in Brazil is a highly relevant topic, given the persistence of economic and social disparities that mark the country. The Federal Constitution of 1988 established a fundamental commitment to the promotion of equality and the guarantee of social rights, however, the implementation of these policies faces several obstacles. The study focuses on the effectiveness of public policies in the contingency of these inequalities, analyzing them under the *lumen* of constitutional teleology and encompassing the main economic and social resistances.

The central question that guides this research is: What are the main obstacles to the effective implementation of public policies aimed at reducing inequalities in Brazil? Two hypotheses are raised to answer this question: the first is that budgetary limitations and the influence of neoliberalism make significant obstacles to the effective implementation of these policies; the second is that social and cultural resistance, including prejudices and the interests of privileged groups, make it impossible to fully achieve the constitutional objectives of equality.

The general objective of the study is to analyze the effectiveness of public policies in addressing inequalities in Brazil in the light of constitutional teleology, contemplating the main economic and social barriers that hinder the implementation of these policies. The specific objectives are: to examine the constitutional principles and fundamental rights established by the Federal Constitution of 1988 in the context of public policies for the promotion of social equality; and to identify the main economic and social barriers that prevent the implementation of these public policies in the country.

The relevance of the investigation is based on the need to understand the dynamics that perpetuate inequalities in Brazil, providing subsidies for the formulation of more effective public policies. In the academic field, it contributes to the debate on the interface between constitutional law and public policies, promoting a critical analysis of the interpositions to the integral development of these policies.

The methodology adopted is qualitative and exploratory, based on bibliographic and documentary research. Legal texts, decrees and official publications were analyzed, as well as relevant academic literature. The documentary analysis allowed an in-depth understanding of the legal construct that guides public policies in Brazil, as well as the practical difficulties faced in its implementation.

The theoretical framework is composed of two main sections. The first, entitled "Constitutional Teleology and the Promotion of Social Equality", addresses constitutional principles and fundamental rights, as well as the role of the State in reducing inequalities.



The second, "Economic and Social Resistances to the Implementation of Public Policies", discusses economic obstacles, such as budget limitations and influences of neoliberalism, and social resistances, including structural inequality and cultural challenges.

It is hoped that the results of this study will provide critical and amplified biases about public policies to address inequalities in Brazil, identifying the barriers that limit their effectiveness and proposing ways to overcome them.

## CONSTITUTIONAL TELEOLOGY IN THE PROMOTION OF SOCIAL EQUALITY

This section addresses the constitutional principles that underlie public policies in Brazil, with an emphasis on the promotion of social equality. An analysis of the articles of the Federal Constitution of 1988 that guarantee the fundamental rights and dignity of the human person is made, highlighting how these provisions guide the formulation of policies aimed at reducing inequalities.

In the segment, the most relevant public policies implemented by the Brazilian State since the promulgation of the 1988 Constitution are discussed, aimed at reducing social and economic inequalities, envisioning policies in the areas of education, health, social assistance, and income redistribution and the advances and obstacles interposed in the realization of these rights.

## CONSTITUTIONAL PRINCIPLES AND FUNDAMENTAL RIGHTS

The principles of law are the foundations that guide the construction and application of the legal system. Bandeira de Mello (2016, p. 54) conceptualizes a legal principle as a "fundamental provision that radiates over different norms, composing their spirit and serving as a criterion for exact understanding and intelligence".

According to Norberto Bobbio (1992), fundamental rights guarantee the individual a sphere of freedom "in relation to" the State, and, in the case of political rights, offer freedom "within" the State, allowing an effective participation of the members of society in the exercise of power. This includes, as first-generation fundamental rights, the rights to life, liberty (including demonstration, movement and association), the right to equal treatment (isonomy) and the right to exercise political power.

The Federal Constitution of 1988, known as the Citizen Constitution, establishes a list of fundamental principles and rights that establish the legal basis for the formulation of public policies aimed at promoting social equality in Brazil. Kim (2015) points out that article 5, paragraph 1, of the Federal Constitution, determines the self-applicability of the norms defining fundamental rights and guarantees, including social rights.



Among these principles, the dignity of the human person, equality, social justice, and the commitment to the eradication of poverty and marginalization stand out. Article 1 of the Federal Constitution, in its item III, establishes the dignity of the human person as one of the pillars of the Federative Republic of Brazil.

Article 1 The Federative Republic of Brazil, formed by the indissoluble union of the States and Municipalities and the Federal District, is constituted as a Democratic State of Law and has as its foundations:

I – sovereignty

II – citizenship

III - the dignity of the human person

IV- the social values of work and free enterprise

V- political pluralism (Brasil, 1988) (Emphasis added).

It is a point of high uniqueness and relevance, as it recognizes and dominates each individual as deserving of respect and consideration, regardless of their economic or social condition. In this way, the dignity of the human person is a guiding guideline for the formulation of public policies that aim to ensure decent living conditions for all citizens, promoting social inclusion and well-being.

Sarlet (2018) addresses human dignity as a central principle that permeates the entire legal system. For the author, the dignity of the human person is understood as a supreme value that must be respected and protected in all spheres of social and legal life, so that dignity is not only a right, but a guiding principle that subsidizes the very existence of fundamental rights.

The principle of the dignity of the human person is one of the fundamental bases of the Brazilian legal system, standing out as one of the most relevant and influential principles in the context of the interpretation and application of legal norms. Of an axiological nature, this principle transcends the mere guarantee of individual rights, assuming the status of a supreme value that guides all state and social activity.

Its express consecration in the Federal Constitution of 1988 emanates the commitment of the Brazilian State to the protection and promotion of the dignity of citizens, recognizing the centrality of the human person in the construction of a just and solidary society, based on conceptual bases manifested throughout its text (Brasil, 1988).

Article 3, in turn, defines the fundamental objectives of the Republic, including the construction of a free, fair and solidary society (item I), the guarantee of national development (item II), the eradication of poverty and marginalization and the reduction of social and regional inequalities (item III), and the promotion of the good of all, without prejudice of origin, race, sex, color, age and any other forms of discrimination (item IV).



Art. 3 The fundamental objectives of the Federative Republic of Brazil are:  
I - to build a free, fair and solidary society;  
II - to guarantee national development;  
III - eradicate poverty and marginalization and reduce social and regional inequalities;  
IV - to promote the good of all, without prejudice of origin, race, sex, color, age and any other forms of discrimination (Brasil, 1988).

The provisions of Article 3 of the current Political Charter are essential guidelines for the formulation of public policies capable of addressing the structural inequities existing in the country. The essential foundations of the Federative Republic of Brazil are outlined in the article, emphasizing the construction of an inclusive and fair society, balanced national growth, fighting poverty and inequalities, along with this, promoting equality and preventing discrimination.

In the same line of reasoning, Article 5 of the Magna Carta asserts fundamental rights and guarantees, declaring the equality of all before the law, without the possibility of any distinction.

Article 5 - All are equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property, in the following terms:  
I - Men and women are equal in rights and obligations, under the terms of this Constitution;  
[...] (Brazil, 1988).

This principle of legal equality establishes the need for public policies that promote equity, providing all citizens with equal opportunities to access essential goods and services, such as education, health, and housing, however, taking into account the specificities of each one.

Furthermore, a range of social rights are enshrined in Article 6, including education, health, work, housing, leisure, security, social security, protection of maternity and childhood, and assistance to the destitute. These are essential elements for the promotion of social justice and serve as a basis for the creation of public policies that enable access to these services and rights for all citizens, especially those in vulnerable situations.

Article 6 - Education, health, food, work, housing, transportation, leisure, security, social security, protection of maternity and childhood, assistance to the destitute, in accordance with this Constitution, are social rights. (Text given by Constitutional Amendment No. 90, of 2015) (Brazil, 1988).

Article 7 characterizes the rights attributed to urban and rural workers, with the fulcrum of improving their social condition: "**Article 7** The rights of urban and rural workers, in addition to others aimed at improving their social condition, are: [...]" (Brazil, 1988).



Among the main rights are fair remuneration, limited working hours, paid weekly rest, vacations, retirement, protection against arbitrary dismissal, unemployment insurance and additional payments for unhealthy activities. Such guarantees are aimed at promoting the equity, safety and well-being of workers throughout the country.

In the context of social rights, education and health are high in *the constitutional corpus*. It is in article 196 that health is established as a right of all and a duty of the State, with guaranteed provision based on social and economic policies that lead to the reduction of the risk of disease and other health problems (Brasil, 1988).

It is verified that the right to health is a subjective right of the citizen and not an act of charity by the State. Its provision is, therefore, a state obligation, serving those who are in a situation of threat or damage to their health, seeking material socioeconomic equality (Vita; Silva, 2014).

Article 205, in turn, states that education is a right of all and a duty of the State and the family, promoted and encouraged with the collaboration of society, aiming at the full development of the person, his preparation for the exercise of citizenship and his qualification for work. The provision emphasizes the importance of educational policies as an instrument for promoting social equality (Brasil, 1988).

According to Scaff and Pinto (2016), the 1988 Constitution gave great importance to the right to education, enshrining it as the first of the fundamental social rights in its article 6 and detailing it from article 205. In addition to these provisions, the 1988 Constitution establishes approximately thirty norms related to the right to education with the objective of ensuring its effectiveness, in a normative context in which the instrumentality of teaching is essential to the Democratic Rule of Law.

Together, the constitutional articles and principles weave a reinforced legal construct, disciplining the formulation and execution of public policies in Brazil, making a state commitment to equality and social justice and requiring concrete actions to minimize inequalities and ensure that all citizens can enjoy a dignified and full life.

According to Vita and Silva (2014), the essential rights to human life, which make up the minimum core for the dignified existence of the human being, are social, economic and cultural rights. These rights cannot remain only in the theoretical sphere; they must be effective and accessible to all individuals in an equal manner.

Public policies, therefore, must be developed and applied with a view to the realization of these rights and principles, combating social and economic disparities and promoting the well-being of the entire population. To this end, the Federal Constitution



included in its core the principles of legal enforceability (justiciability), maximum progressive realization and prohibition of retrogression (Pinto; Ximenes, 2018).

## PUBLIC POLICIES AND THE ROLE OF THE STATE IN REDUCING INEQUALITIES

Since the promulgation of the Federal Constitution of 1988, the Brazilian State has been applying the execution of various public policies with the aim of resolving social and economic inequalities. Such policies cover key areas such as education, health, social assistance and income redistribution, reflecting the constitutional principles previously discussed.

Pinto and Ximenes (2018) point out in their studies the guidelines that established guarantees of appropriate, proportional and progressive financing, with a focus on health and education, developing a so-called normative microsystem, which brings meaning to specific sources of revenue and assigns minimum levels of spending, as well as prioritizing rights in budget performance.

In the field of education, the Constitution established education as a right of all and a duty of the State. As a result, several programs and initiatives were created aimed at promoting access to education and improving the quality of teaching indicators. An example is the Fund for the Maintenance and Development of Basic Education and the Valorization of Education Professionals (Fundeb), established in 2007, which finances public basic education and contributes to the reduction of regional disparities.

The University for All Program (ProUni) and the Student Financing Fund (FIES) are other advances that have expanded access to higher education for low-income students. As a result, adjustments in legislative documents subsidized such programs in order to democratize, on various bases, national education (Ferrer; Rossignoli, 2018).

However, challenges remain, such as the marked differences in the quality of education between regions and the need for greater investment in school infrastructure. Despite the explicit provision and regulation of the right to education in various constitutional and infra-constitutional provisions, there is still much controversy as to its enforceability, since social rights in general face several obstacles to be realized (Scaff; Pinto, 2016).

In the field of health, the institutionalization of the Unified Health System (SUS) was a milestone in the promotion of the right to universal and free health. The system, with its legal and principled bases, aims to ensure integral, universal and equal access to health services, ranging from primary care to medium and high complexity procedures.



On a subsidiary basis, the Family Health and More Doctors Programs (MP 621/2013) were created to expand the supply of care in the poorest regions. For Kamikawa and Motta (2014), the Unified Health System is under-resourced, poorly structured and has few professionals to serve the population in the context of Primary Care in places that are unattractive for the establishment of medical professionals, thus, the More Doctors Program implied an initiative to seek the realization of the constitutional right to health

In this sense, even in the face of significant progress, including being an international parameter for health care programs, the SUS faces significant obstacles, including underfunding, insufficient professionals in remote areas, and disparity in access and quality of the services offered.

Rights, in order to be effective, generate financial and social costs for the State. But taxation would serve to maintain the State structure and, inserted in it, the cost for the development of public policies for the realization of the fundamental social rights of citizens. However, the State has justified the non-granting of essential benefits involving social rights in the absence and/or insufficiency of resources (Souza; Olive tree; 2017, p. 78).

In the case of the Right to Health, the right to life itself is assumed, thus, when the provision of the state offer does not satisfy the constitutional prescriptions, it is common for society to resort to the Judiciary to ensure the protection of these rights. The Organic Health Law, in its article 2, advocates health as "a fundamental right of the human being, and the State must provide the indispensable conditions for its full exercise" (Brasil, 1990).

In terms of social assistance, the enactment of the Organic Law of Social Assistance (LOAS) in 1993 stands out, which created the Unified Social Assistance System (SUAS), organizing basic and special social protection services for families and individuals in vulnerable situations.

According to Silveira (2017), the SUAS is recognized as one of the main reforms of the Brazilian State in recent democracy, in the field of social policy, for establishing devices that conceive a state public policy. The SUAS is seen as a state, public and democratic model. However, the current scenario points to regressive trends, sometimes explicit, other times hidden by narratives that exploit the weaknesses still present in the system, such as the difficulty in the execution of the resources transferred by the National Social Assistance Fund to the municipalities and the lack of standards regarding the costs of services.

A point of great socioeconomic reverberation was the Bolsa Família Program, implemented in 2003, constituting one of the best known initiatives, providing direct income transfer to families in poverty and extreme poverty. The program was decisive in the search for the reduction of poverty and income inequality in Brazil, but its effectiveness continues





to depend on the perpetuity of investments and on the improvement of the management and inspection of benefits (Faria; Dias, 2016).

In the area of income redistribution, the strengthening of policies such as the Minimum Wage, readjusted annually, and Social Security have played notable roles in promoting social justice and reducing economic inequalities. Social Security is aimed at ensuring retirement and benefits for urban and rural workers, favoring labor-based economic security for millions of Brazilians (Gimenez, 2016). Despite this, the financial sustainability of the pension system is an ongoing challenge, requiring reforms to ensure its long-term viability.

Although substantial progress has been made since 1988 is noticeable, the effectiveness of effective implementation of public policies remains a significant challenge. Factors such as structural inequality, budget constraints, and the influences of neoliberalism are considerable aspects of this phenomenology.

Furthermore, cultural resistance and social factors also hinder the full realization of constitutional rights. The continuous commitment of the State and society is essential to overcome these challenges and continue to build a more just and egalitarian society.

## **ECONOMIC AND SOCIAL RESISTANCE TO THE IMPLEMENTATION OF PUBLIC POLICIES**

This section lends itself to examining the economic barriers to the effective implementation of public policies in Brazil, exploring the budgetary constraints faced by the state, the influence of neoliberalism on the formulation of economic policies, and the impact of these barriers on the realization of social rights. The analysis includes a review of austerity policies and their effects on social programs.

It is also about social resistance to the implementation of public policies, including the analysis of structural inequalities, cultural prejudices, and ideological resistances that hinder the promotion of social equality. Specific cases of resistance by privileged economic and social groups, as well as social movements that seek to maintain the status quo, will be examined.

## **ECONOMIC BARRIERS AND INFLUENCES OF NEOLIBERALISM**

The effective development of public policies in Brazil faces notorious economic obstacles, which hinder the realization of the social rights embodied in the 1988 Magna Carta. In this vein, it is possible to highlight issues such as budget limitations, the influence



of neoliberalism on the formulation of economic policies, and the effects of austerity policies on social programs (Ribeiro, 2019).

The State, when advocating public policies, must provide satisfactory resources for the effectiveness of fundamental rights for the attention and fulfillment of the essential needs of society, ensuring the existential minimum for a life with dignity (Souza; Oliveira, 2017).

However, budgetary restrictions and limits are impediments to the full implementation of public policies. The Brazilian state faces fiscal constraints that limit its ability to invest in essential areas such as health, education, and social assistance (Lucredi, 2014).

According to Oliveira (2022), the Brazilian tax burden is relatively high, but the collection is often insufficient to cover all the financing needs of public policies, especially in a context of economic and social inequality. The mismanagement of public resources, corruption and administrative inefficiency contribute to the scarcity of resources aimed at social investments.

As Henrique (2018) points out, the influence of neoliberalism in the formulation of economic policies has exacerbated the financial difficulties of the State. Neoliberalism, with its emphasis on market policies, deregulation, and reducing the role of the state in the economy, led to the adoption of measures that prioritized fiscal balance over social investments.

Neoliberal reforms, applied since the 1990s, have included the privatization of state-owned enterprises, the liberalization of trade, and the deregulation of financial markets. Although these measures have been fiercely defended as mechanisms for promoting economic growth, they have also focused on cuts in public spending and a reduction in the State's capacity to finance social policies (Cardoso; Camargos, 2021).

Austerity policies, applied responsively to economic crises and pressure to reduce fiscal *deficits*, have had particularly harmful impacts on social programs. Austerity incorporates the reduction of public spending and the increase of taxes, with the aim of balancing the government's accounts. However, these measures constantly incur budgetary limitations in the areas of health, education, and social assistance, having a direct impact on the most vulnerable population (Henrique, 2018).

For example, Constitutional Amendment 95, approved in 2016, imposed a ceiling on public spending for 20 years, further limiting the State's ability to invest in social policies. The measure has been widely criticized for restricting the resources available to essential areas and for hindering the country's economic and social recovery.



Thus, it is possible to adduce that the repercussion and impact of these economic barriers on the full realization of social rights are intense and profound, since it is notable that the insufficiency of budgetary resources and the predominance of the defense of fiscal balance over social investments compromise the State's ability to ensure universal and equal access to essential services.

Thus, for Verbicaro (2021), cuts in social programs, resulting from austerity policies, exacerbate the vulnerability of impoverished populations and expand preexisting inequalities. The lack of adequate investments in health, education and social assistance prevents the promotion of equal opportunities and the construction of a fairer and more inclusive society, as per the constitution.

In fact, such restrictive economic situations imply considerable challenges for the effectiveness of public policies in Brazil and their overcoming gives rise to a frank reassessment of the country's economic and fiscal priorities, with a renewed commitment to social justice and inclusion.

### **SOCIAL RESISTANCE, STRUCTURAL INEQUALITY AND CULTURAL CHALLENGES**

In addition to economic and budgetary limitations, significant social resistance stands out that hinders the promotion of social equality and manifests itself through structural inequalities, cultural prejudices and ideological resistances, perpetuated by privileged economic and social groups, as well as social movements that seek to maintain the *status quo* (Madeira, 2017).

For Madeira (2017), structural inequalities in Brazil have deep historical roots, dating back to the colonial period and slavery. These inequalities are maintained by a socioeconomic system that favors a small elite, to the detriment of the majority of the population.

The concentration of income, land and political power in the hands of a few impedes social mobility and perpetuates the exclusion of large segments of society. The economic elite exerts a disproportionate influence on political decisions and the formulation of public policies, often resisting changes that could threaten their privileges (Trovão; Araújo, 2021).

From an anthropological perspective, Freitas (2021) states that cultural prejudices act as catalysts in the resistance to the implementation of public policies aimed at social equality. Racism, sexism, homophobia and other forms of discrimination are widely disseminated in Brazilian society. These biases are internalized and perpetuated by social institutions, including the family, the media, and the educational system.



For example, affirmative policies for the inclusion of black and indigenous people in universities and in the labor market face resistance based on meritocratic arguments, which ignore the historical and structural disadvantages faced by these groups (Santos, 2022).

Ideological resistance is still a significant interposition. Conservative and neoliberal ideologies, which advocate minimizing the role of the State in the economy and in the provision of social services, gain strength in contexts of economic and political crisis. The thesis is that the responsibility for social welfare should fall more on individuals and less on the State, disseminating the idea that redistributive policies are ineffective or unjust (Santos, 2022).

Movements such as Escola Sem Partido, which oppose discussions about social inequality and diversity in schools, exemplify this ideological resistance. As a social movement, ESP acts in the school and curriculum spheres by implementing cultural pedagogy and biopolitical strategies that exclude differences in these contexts. This approach involves surveillance, coercion and prohibition, denying certain discussions and positions within the school environment (Carvalho *et al.* 2016).

Among other cases are the opposition of business groups to policies to increase the minimum wage and the regulation of domestic work. These measures, seen as essential to promoting social justice, are often countered by arguments that they would increase costs for employers and hurt the economy. Rural movements such as agribusiness also resist agrarian reform policies, arguing that such policies threaten agricultural productivity and the national economy (Alentejano, 2020).

The Brazilian agrarian conjuncture today has as its fundamental mark the hegemony of agribusiness, reinforcing the power of the latifundia, blocking agrarian reform and putting social movements and rural peoples on the defensive. This process has deepened expropriation and violence against peasants, indigenous people, quilombolas, and other traditional communities and expanded agricultural production centered on large property, articulated with large transnational capital and politically and economically supported by the Brazilian State and ideologically by the corporate media (Alentejano, 2022, p. 252).

On the other hand, social movements that seek to maintain the *status quo*, such as certain segments of the urban middle classes, resist income transfer policies, such as Bolsa Família, and racial and social quota policies in universities. According to Santos (2022), these movements constantly resort to discourses of meritocracy and efficiency to justify their opposition, ignoring the structural inequalities that such policies aim to combat.

In this approach, social resistance to the implementation of public policies in Brazil is multifaceted and deeply rooted. Overcoming them requires a continuous and concerted effort from various sectors of society, including education to raise awareness about



structural inequalities, the promotion of values of inclusion and social justice, and the construction of a political consensus that recognizes the need for effective public policies to promote equality.

## FINAL CONSIDERATIONS

This study aimed to analyze the effectiveness of public policies in tackling inequalities in Brazil in the light of constitutional teleology, contemplating the most expressive economic and social barriers that hinder the effectiveness of the execution of these policies. The research addressed the constitutional principles that underlie public policies, economic limitations and social resistances that make up a critical platform in the Brazilian scenario.

The analysis of the constitutional principles revealed that the Federal Constitution of 1988 establishes the search for the promotion of social equality, having in its main principles, which are, the dignity of the human person, equality and social justice the basic guidelines for the formulation of inclusive public policies. It establishes the relevance of ensuring social rights and combating inequalities, providing a consistent normative panorama for the State's action.

However, the study also identified obstacles and obstacles to the implementation of social policies. Budgetary limitations, confronted by an inadequately distributed tax burden and the mismanagement of public resources, compromise the State's ability to invest appropriately in essential issues.

In addition, it was noticed that the incidence of neoliberal conceptions in the formulation of economic policies and austerity policies has further restricted social investments, negatively impacting the realization of social rights. Overcoming such obstacles presupposes a reassessment of the state's economic and fiscal priorities.

Social issues were also unique in the study's scrutiny, reflecting the entrenched resistance in the economic and social elites who benefit from the status quo. Thus, the objectives of the study were effectively achieved. It is suggested that future studies continue to explore the interactions between economic policy, social resistances, and constitutional rights.



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