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## **SOCIAL INEQUALITY ITS LEGAL ASPECTS AND TAX COLLABORATION TO MITIGATE ITS EFFECTS**

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**Abstract:** The present work aims to expose aspects of social inequality, its effects, assess whether Brazil is meeting target 10 of the SDG, Sustainable Development Goals, provided for in the 2030 Agenda for Sustainable Development, promoted by the United Nations (United Nations - UN) which proposes a global pact in favor of sustainable development, in addition to verifying the behavior of the volume of investments, as one of the necessary mechanisms to reduce social inequalities. The national tax system can be an important tool in the process of mitigating the negative effects of social inequality in Brazil.

**Keywords:** Social inequality. Agenda 2030. Contributive Capacity. Existential Minimum. Tax Cashback.

## INTRODUCTION

Although the reduction of social inequality is a fundamental objective foreseen in the Federal Constitution, in its item III of article 3, Brazil is still one of the countries where social inequality is extreme and signals that there are few or almost non-existent signs that it will be reduced to mid-term.

It must be noted that not only in the field of studies is it found that social inequality is a Brazilian conjunctural problem, but it is the perception of the population, in which it perceives and indicates what must be the paths to be followed so that in fact there could be a scenario favorable to solving this problem.

Public policies in Brazil do not have the necessary consistency and sustainability for social programs that can address the issue to be perennial and goals to be observed as objectives of the State and not of governments and party acronyms.

The advancement of fundamental social rights is minimal in relation to society's demand, in which a significant part of its population still lacks the existential minimum

so that they can live at least with a minimum of dignity.

Social inequality is a global problem that affects many countries across the world. Inequality can be measured in many ways, including income inequality, wealth inequality and opportunity inequality. Taxation can be one of the most important tools that governments have to reduce social inequality, changing its base matrix from regressive to progressive and, concomitantly, providing compensation through the return of the tax burden on the consumption of goods and services, especially about food.

Evaluating the behavior of the volume of investments is an instrument that makes it possible to risk that in the medium term the situation of reduction of inequality has not yet appeared on the horizon.

## SOCIAL INEQUALITY

Article 3, III of the Federal Constitution<sup>1</sup> indicates and advocates as a fundamental objective of the Brazilian Republic, the eradication of poverty and marginalization and the reduction of social and regional inequalities.

The eradication of poverty and marginalization will make a significant contribution to mitigating social and regional inequality.

Actions aimed at eradicating poverty will therefore have a positive impact on reducing social inequality, that is, eradicating poverty can in fact substantially reduce social inequality, given that this is one of the effects of the former.

The 1988 constituent perhaps, aware of the great difficulty of eradicating poverty and marginalization, offered the possibility of at least seeking the opposite path, that is, reducing social and regional inequalities, through paths that may have a favorable

1. BRAZIL. Federal Constitution.

scenario to reduce the poverty.

There is also an understanding that poverty results from social inequalities, further aggravating its situation, which consequently causes social exclusion, and that social public policies are necessary for this system to be equitable. Gone are the days when poverty was justified as an inability of the lower class to get out of that state. The myth of the “culture of poverty”, according to which the poor do not improve their living conditions because they don't want to, dissolves, always in the harsh coldness of empirical and historical evidence”<sup>2</sup>

In any case, poverty and social inequality are phenomena of the same nature that are characterized by economic, political and cultural imbalance between different social groups, the unequal distribution of resources, opportunities and privileges between individuals and groups in society, thus enhancing their effects.

This inequality can be observed in different aspects of social life, such as income, education, health, access to housing, proving to be a complex and multifaceted phenomenon. It stands out:

- Differences in income: Inequality in income is one of the most obvious aspects of social inequality. It is reflected in the unequal distribution of wealth and stress among different social groups, which can lead to increased poverty and social exclusion. Differences in income can be caused by factors such as the type of work, education, race, gender, among others;
- Inequality in education: Education is a key factor in accessing opportunities for personal and professional development. However, inequality in education is a

common problem in many societies, with some groups having access to quality education more than others. This can lead to differences in income and social participation across the lifespan;

- Health inequality: Health is a fundamental right of all people, but health inequality is a common problem in many societies. People who live in conditions of poverty or who belong to certain social groups tend to have less access to quality health services and suffer more from diseases and health problems;
- Housing inequality: Access to decent housing is a fundamental right of all people, but housing inequality is a common problem in many societies. People who live in conditions of poverty or who belong to certain social groups tend to have less access to adapted housing and suffer from problems such as overcrowding, lack of basic sanitation and lack of security.

It can also be perceived in the relations of power and domination between different groups, which can be felt in factors such as race, gender, social class, ethnicity, among others.

Social inequality is usually measured using indices such as the GINI index, which ranges from 0 (total equality) to 1 (total inequality). Some countries have higher levels

high levels of social inequality and others, but it is important to remember that inequality can exist in any society, regardless of its level of development.<sup>3</sup>

The most vulnerable portion of society

2. ABRANCHES, SH Social Policy and Combating Poverty: The theory of practice, in Social Policy and Combating Poverty. 4.ed. Rio de Janeiro: Jorge Zahar Editor, 1998.

3. 5 After the peak of inequality caused by the pandemic, the index declined continuously in 2021. In the first quarter of 2022, there was again a decline in inequality compared to the previous quarter, having reached 0.51 for household income. The second quarter of 2022 showed a reversal of the drop-in income inequality observed since mid-2020. The Gini index for individual

cannot remain in the eternal expectation that there will be effective actions to substantially reduce social inequality, even because the State absorbs more resources every fiscal year, whether to provide its payroll, pensions and civil servants' pensions, the payment of interest on the public debt, the redemption of papers, the functional structure of the Powers of the Republic, which is why mechanisms capable of reducing extreme social inequality in Brazil must be sought, and taxation could be one of them.

Administrative and electoral reform must be priority agendas for governments, but these, when revisited, promote changes that reflect, in practice, almost nothing in the economic and social life of Brazilians, as the public budget is increasingly inflated by non-recurring expenses. directed to public policies, but this agenda, that is, the administrative and electoral reform, are essential when it comes to assessing tax reform, given that without administrative reform, public spending cannot be reduced and without electoral reform, there is no single agenda for tackling social issues.

Social inequality has profound consequences for people's lives and society as a whole. People who live in conditions of inequality tend to have fewer opportunities to access essential goods and services, such as quality education, adequate health and decent housing. This can lead to increased poverty, violence and social exclusion.

In addition, social inequality can have a negative impact on social cohesion and the stability of societies. It can generate conflict and tension between different groups and contribute to political and social polarization.

The Coronavirus (Covid-19) pandemic is one of the tragic examples to demonstrate

how blatant and serious social inequality is in Brazil, in which it was faced with how the layer of extreme social vulnerability is curtailed from a dignified life, as they suffer from deprivation of food and other resources to meet the needs of the existential minimum.

The need to raise awareness of the existence of social inequality and the search for its reduction has long been alerted, especially by humanists, with emphasis on Jean-Jacques Rousseau, in his well-known work of 1755, entitled *Discourse: What is the Origin of Inequality between Men*, and if it is Authorized by Natural Law, it stands out in its final part:

“I have endeavored to expound the origin and progress of inequality, the establishment and abuse of political societies, as far as these things can be deduced from the nature of man by the exclusive lights of reason, and independently of the sacred dogmas which give sovereign authority the sanction of divine right. It follows from the above that inequality, being almost zero in the state of nature, derives its strength and growth from the development of our faculties and the progress of the human spirit, finally becoming stable and legitimate through the establishment of property and laws. It also turns out that moral inequality, authorized only by positive law, is contrary to natural law whenever it does not compete in the same proportion with physical inequality. This distinction sufficiently determines what is to be thought, in this connection, of the kind of inequality which reigns among all policed peoples, for it is manifestly against the law of nature, however we define it, for a child to rule over an old man, for an imbecile lead a wise man, or that a handful of people swim in the superfluous, while the hungry crowd lacks the necessary”<sup>4</sup>

To tackle inequality, it is necessary to implement effective public policies that

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income rose from 0.481 to 0.489, and for household income from 0.51 to 0.515. in < chrome-extension://efaidnbmnnpicajpcgclefindmkaj/https://www.ipea.gov.br/cartadeconjuntura/wp-content/uploads/2022/09/220901\_cc\_56\_nota\_17\_rendimentos\_e\_horas\_trabalhadas.pdf > Accessed on 01/04/2023.

4. On <free\_books/origin\_desigualdades.htm> On 01.04.2023. p.46

promote social justice and equal opportunities for all. This includes implementing income transfer programs, expanding access to education and health, guaranteeing decent housing and combating violence and corruption, among other strategic axes, without distancing itself from public investments.

In order to make these policies viable, they need financial resources from public budgets, but they cannot burden the less privileged class even more, that is, to increase regressive taxes, as these annihilate the income of the low-income population, in addition to substantially burdening essential items, such as food, restricting their access.

## PEOPLE'S PERCEPTION OF INEQUALITY

It is known that there are several causes of social inequality, and these indications were compared between research and scientific technical work with the opinions of Brazilians, in surveys by Oxfam Brasil and Data Folha, from 2017 and 2019 and the last survey by Data Folha in March 2022.<sup>5</sup>

The results of these surveys served to highlight the alignment between public opinion and the field of study, demonstrating the close correlation between the concepts, diagnoses, the perspective of multi-causality and the alternatives of public policies, as necessary actions to face and resolve the causes of social inequality.

Surveys like these must be encouraged so that one can actually understand points of convergence between scientific studies and works and popular opinion, this the latter for portraying in practice the few effects of

the actions that society and the Public Power carry out in favor of solving social problems.

One of the converging points between public opinion and scientific technical studies is that it is the State's responsibility to deal with the resolution of social inequality. This understanding is shared by the majority of respondents in the survey, in all income brackets. As it is also the State's obligation to reduce the difference between the very rich and the very poor.

The research indicated that there is a pessimism lodged in the popular feeling that the difference between the richest and the poorest will not decrease in the coming years, demonstrating the uncertainty of changing political priorities even at the beginning of a government that has a notorious ideologically social bias.

Differences between genders and race also converged with knowledge from the field of study, for example, it is skin color that influences police approaches and even hiring by companies, resulting, obviously, in a reduction in the hiring of blacks and also women, even with the existence of vacancies that are preferably filled by white men.

The survey also points out that from a series of 10 proposals or initiatives that could contribute to reducing the distance between the richest and poorest in Brazil, combating corruption, public investment in education, public investment in health and increasing the supply of jobs were the items rated most important by Brazilians: from 0 to 10, with 0 being not at all important and 10 being very important, these measures obtained an average score of 9.6. Other items, however, were considered equally important, reaching equivalent mean scores. They are: guaranteeing

5. Available in < <https://www.oxfam.org.br/um-retrato-das-desigualdades-brasileiras/pesquisa-nos-e-as-desigualdades/pesquisa-nos-e-as-desigualdades-2022/> #:~:text=Some%20of%20main%20results%20of%20research&text=79%25%20of%20interviewees%20agree%20that,de equality%20between%20poor%20and%20rich.> On 21.04.2023.

8 OXFAM BRAZIL; DATA SHEET. Us and inequalities: perceptions of inequalities in Brazil. São Paulo: Oxfam Brazil; Datafolha, 2017.

\_\_\_\_\_. Us and inequalities: perceptions of inequalities in Brazil. São Paulo: Oxfam Brazil; Datafolha, 2019.

equal rights between men and women (9.5), combating racism (9.5), raising the minimum wage (9.5) and public investment in social assistance (9.3).

It is reasonable to say that in the economy, the increase in inequality can affect the market by weakening demand, negatively impact human capital formation, reduce productivity and, therefore, harm sustainable and long-term growth processes. While in the political and social field, it imposes consequences such as low social cohesion, increased crime, restrictions on the exercise of citizenship, impairment of social mobility and promotion of protectionist postures.<sup>6</sup>

## THE WORLD'S CONCERN ABOUT INEQUALITY

The concern with the consequences of social inequality is worldwide, given that its results impede human and, consequently, economic development, which is why countries seek to find ways to resolve this issue, in addition to others of extreme importance.

Nations must prioritize social welfare, correcting distortions arising from inequality, and commit to goals, objectives and actions with the development of indicators and deadlines for their achievements in a sustainable manner.

In this sense, the 2030 Agenda for Sustainable Development was created, promoted by the United Nations (UN), which proposes a global pact in favor of sustainable development. Its main purpose is to ensure human development and meet the basic needs of citizens through an economic, political and social process that respects the environment

and sustainability.

<sup>7</sup>Ratified in 2015 by 193 countries, this Agenda is divided into 17 Goals – the ‘SDGs, Sustainable Development Goals’ – made up of 169 goals that must be met by the year 2030. Broad, diverse and demanding the interaction of its goals, such a proposal involves a diversity of fields of action that transit through the eradication of poverty and hunger; health and wellness; education; gender equality; access to safe water and sanitation; clean energy; decent work; sustainable economic growth; reduction of social inequalities; sustainability of life; infrastructure innovations; responsible consumption; healthy cities; climate responsibility; reduction of inequalities; effective institutions; and social peace.

It stands out from the Agenda, for being closely related to this work, the objective 10 that deals with the reduction of social inequality, which composes elements and indicators that, if observed and executed, will have significant results.

Objective 10 of the ODS comprises several goals, among which the achievement and maintenance of income growth for the poorest population stands out; promote the social, economic and political inclusion of all, regardless of age, gender, disability, race, ethnicity, origin, religion, economic or other condition and the adoption of policies, especially fiscal, salary and social protection, and progressively achieve greater equality.

It is necessary to highlight Objective 10 of the 2030 Agenda for Sustainable Development, promoted by the United Nations (United Nations - UN), dedicated to the Eradication of Poverty, with emphasis on the following goals:

6. FUENTES-NIEVA, R.; GALASSO, N. Working for the Few: political capture and economic inequality. Oxfam Brazil, 2014 - ATKINSON,

B. Inequality: what can be done? São Paulo: Editora Leya, 2016 - ECLAC – ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN. Horizons 2030: equality at the center of sustainable development. Santiago: ECLAC, 2016.

The same issue

7. United Nations. Transforming our world: the 2030 agenda for sustainable development. Resolution A/RES/70/1 [internet]. New York: UN; 2015. [accessed 2019 Mar 15]. Available in: <https://nacoesunidas.org/wp-content/uploads/2015/10/agenda2030-pt-br.pdf>.» <https://nacoesunidas.org/wp-content/uploads/2015/10/agenda2030-pt-br.pdf>. On 22.04.2023.

(i) eradicate extreme poverty for all people in all places, currently measured as people living on less than \$1.90 a day; (ii) reduce by at least half the proportion of men, women and children, of all ages, who live in poverty in all its dimensions, according to national definitions; (iii) implement, at the national level, adequate social protection measures and systems, for all, including floors, and by 2030 achieve substantial coverage of the poor and vulnerable; (iv) ensure that all men and women, particularly the poor and vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technologies and financial services, including microfinance; (v) build the resilience of the poor and those in vulnerable situations, and reduce their exposure and vulnerability to extreme weather-related events and other economic, social and environmental shocks and disasters; (vi) and reduce their exposure and vulnerability to extreme weather-related events and other economic, social and environmental shocks and disasters; (vii) ensure a significant mobilization of resources from a variety of sources, including through enhanced development cooperation, to provide adequate and predictable means for developing countries, in particular least developed countries, to implement programs and policies to end poverty in all its dimensions and create strong policy frameworks at national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investments in poverty eradication actions.

8. Among other publications, the Labor Panorama 2012: Latin America and the Caribbean (2012), by the International Labor Organization - ILO (International Labor Office - ILO), and the works of Baltar and Leone (2012), Corrêa and Santos (2013) and Saboia (2014) document and interpret the evolution of the Brazilian labor market during this period.

It must be noted that the eradication of poverty is part of the goals of Objective 10 of the Agenda, with a clear indication that one must seek to increase the income of all people living in extreme poverty, given that they are living on less than \$1.90 per day.

It still cannot be distanced that Objective 1 of the Agenda discusses exactly the need to eradicate extreme poverty for all people everywhere, currently measured as people living on less than US\$ 1.25 a day, a goal like all others, to be fulfilled by 2030.

### **ASSESSMENT ON THE EVOLUTION OF COMPLIANCE WITH THE SDG 2030 AGENDA**

More than 7 years after the 2030 SDG Agenda was celebrated, it is possible to assess whether Brazil is at least on track to meet the target for each of the indicators, in particular that of increasing income, which will contribute to eradicating poverty and with social inequality.

Regarding target “10.1 - By 2030, progressively reach and sustain income growth of the poorest 40% of the population at a rate higher than the national average, according to Table 1, according to IBGE, between 2016 and 2021, there was a decrease per capita income of 1.22%, and from 2016 to 2021, the drop was even greater, that is, 2.08%.

According to the IBGE, the international economic activity in 2008 and the retraction of world markets, real increases in the minimum wage, the expansion of social programs and the increase in credit and public investments stimulated family consumption and favored domestic production. and the creation of jobs in the labor market.<sup>8</sup> However, this movement favorable to workers ended its cycle and showed a reversal trend in the following years, which was reflected in the

Indicator 10.1.1 – Growth rate of household expenses or per capita income among the 40% with the lowest income of the population and the total population			
Year of reference	Period	Annual growth rate of average household income per capita, among the 40 per cent, with the lowest incomes, between the reference years and 5 years earlier.	Annual growth rate of average household income per capita of the total population, between the reference year and 5 years earlier.
2017	2017/2012	0,1	0,39
2018	2018/2013	-0,79	0,47
2019	2019/2014	-1,52	0,19
2020	2020/2015	0,19	-0,05
2021	2021/2016	-2,08	-1,22

Table 1

Source: IBGE, National Household Sample Survey Continues (PNAD continues)

Poverty line	Reference/Use	Price R\$)	Poor	
			Total (1000 people)	Proportion (%)
<b>Extreme poverty</b>				
89(R\$)	Bolsa Familia basic line	89	8605	41
US\$ 1,90PPP (1)	World Bank line for low-income countries	151	13689	6,5
Minimum wage (1/4)	BPC/LOAS concession line	250	24 688	11,8
<b>Poverty</b>				
178(R\$)	Bolsa Família eligibility line	178	16 256	7,8
US\$ 3,20 PPP (1)	World Bank line for lower-middle-income countries	253	25455	12,2
50% of the median	Measure of relative poverty used by the OECD	431	51053	24,4
US\$ 5,50 PPP (1)	World Bank line for upper-middle-income countries	436	51742	24,7
Minimum wage (1/2)	Single Registry of the Federal Government	499	61065	29,2

Table 2 Monetary Poverty Lines -2019

Source: IBGE, Directorate of Research, Coordination of Population and Social Indicators.(1) PPP = Purchasing Power Parity.



stabilization of the share of wages in GDP in 2016, and in reductions in final two years of the series, attributed to the drop in the level of employment and the increase in informality and their impacts on average earnings and on the earnings mass<sup>9</sup>.

In the Table shown in Table 2, it indicates the situation of Monetary Poverty Lines in Brazil in 2019:

The convergence of understandings in the field of knowledge is in the sense that the increase in national per capita income, which consequently may be reflected in the layer between the 40% with the lowest income, moves in the direction that there must be real increases in the minimum wage, raising credit and, in particular, public investments.

According to Table 2, Brazil has about 24 million people living on only ¼ of the minimum wage (R\$ 250.00), that is, a contingent living in extreme poverty, in addition to the fact that 61 million people live in poverty with income of ½ minimum wage.

## PUBLIC INVESTMENTS IN BRAZIL - EVOLUTION

As for public investments, according to the FGV (Table 3), they continue with a downward bias. In 2021, government investment totaled 2.05% of GDP, the second lowest rate in the historical series that occurred in 2017 when it reached 1.94% of GDP. Consolidation includes the central government, states, municipalities and federal state-owned companies<sup>10</sup>.

## Public investment (1% of GDP)



Table 3

Source: observatorio-politica-fiscal.ibre.fgv.br

Public investments in infrastructure generate jobs, income and improvement of the macroeconomic scenario, efficiently encouraging investors, contributing to an increase in GDP, providing better income.

## DISCONNECTION OF STATE ACTIONS

It has to be noticed that in Brazil, there are no joint actions between the spheres of government for the execution of actions and public policies in order to achieve more efficient results, for the reduction of social inequality, resulting from extreme poverty.

In this sense, the Government, in an articulated manner at all levels of the Federation, must set goals and permanently monitor disparities, with the aim of implementing targeted public policies and correcting deviations or unexpected results.

Programs aimed at inequality must be part of a common State agenda, covering all levels of public management, obeying regional realities, economic vocations, for the optimization of resources and the assertiveness of actions. Brazil is a continental country with social and economic variants that call for actions compatible with each region and with

9. Available in <<https://static.poder360.com.br/2020/11/Indicadoresociais-IBGE.pdf>> Accessed on 23.04.2023.

10. Available in <<https://observatorio-politica-fiscal.ibre.fgv.br/series-historicas/investimentos-publicos/investimentos-publicos-1947-2021>> accessed on 23.04.2023.

goals and deadlines to be met.

The goals must contain indicators capable of reflecting the situation of income, health, education, housing, security, investments, and other sensitive ones that reflect the disparities of inequality in addition to regional economic development indices.

The information and statistical data currently available must be increased for the monitoring and understanding of social inequalities, with clear data information from the real visualization of the Brazilian social pyramid, and that may allow the crossing of information, such as educational data, income, health, race, gender, and thus lead to the effectiveness of more assertive public policies.

Multi-annual Plans and Public Budgets only reflect the momentary political impetus, often distant from the factual social reality, in addition to being altered with each change of government.

State programs and projects for the reduction of social inequality, unfortunately end up as party and ideological flag, transforming into government actions and are suspended, aborted or simply abandoned, during the electoral mandate, like unfinished public works, without resources audiences diverted to their conclusions.

The global concern with social inequality, the information and statistical data about it, the effects on the economy, on politics of its harmful effects, in addition to knowing the paths that can be followed for planning its mitigation, demonstrate that what is missing is only of a political agenda focused and committed to carrying out the necessary actions.

## **THE LEGAL ORDER ON THE REDUCTION OF INEQUALITY AND JUDGMENTS OF THE FEDERAL SUPREME COURT**

There is, in the already mentioned constitutional bulge (Article 3, III), the responsibility of the State to eradicate poverty and reduce social inequality, a precept that dispenses with the need for infra-constitutional norms, signaling that the State's duty is to intervene and promote public policies for its realization.

The device can be interpreted in line with the principle of human dignity, since social inequality and poverty are not clear and unequivocal obstacles that the principle is being confronted with.

Respecting the principle of the dignity of the human person, covers meeting the basic needs of a material nature, as well as those immaterial ones that promote self-fulfillment. That is, it is everyone's right to have a dignified life, with a standard of living capable of guaranteeing the health and well-being of themselves and their families.

The 2nd dimension human rights encompass the social rights that correspond to the rights of equality, marking the beginning of the 20th century, along with the First World War.

In the wake of fundamental rights, Brazil ratified the Pact on Civil and Political Rights in 1992, which, in Article 11, establishes the right of every person to an adequate standard of living, and the States Parties must take the appropriate measures for conquest

of that right. In addition, the Universal Declaration of Human Rights complements in the sense of guaranteeing such rights.

Article 170 of the Federal Constitution must be highlighted, which indicates the principles of the economic order, which, based on the appreciation of human work and free initiative, aims to ensure a dignified existence

for all, in accordance with the dictates of social justice, and in its item VII highlights the principle of reducing regional and social inequalities, in line with fundamental objectives of the Federative Republic of Brazil (article 3, III).

Articles 43, caput, and 165, § 7, also mention precepts for reducing regional or inter-regional inequality.

The Federal Supreme Court, attentive to the constitutional commandments, in several decisions highlighted the need to obey the need to reduce social inequalities, and curb norms that could increase them, such as the judgment of Theme 1102 of General Repercussion<sup>11</sup>, in which it evaluated the social security benefit transition rules, deciding that the transitional rule ended up widening the gap between those who earn more and progress and, over time, earning more, those who have more difficulties due to lower education and their average salary will decrease. It ended up widening social inequality and income distribution, which was not the case envisaged, even by the legislator.<sup>12</sup>

In this line, it is noteworthy that the STF has expressed its opinion on the subject in 122 Judgments, in 935 monocratic decisions, and in 84 decisions of the Presidency, in addition to citing 122 times in its newsletters.<sup>13</sup>

## THE EXISTENTIAL MINIMUM AND SOCIAL INEQUALITY

The existential minimum is a legal concept that refers to the set of minimum conditions that a person needs to have to live with dignity. These conditions include, for example, access to food, housing, health and education.

The relationship between the minimum existential and social inequality is that the greater the social inequality, the greater the number of people who do not have access to these minimum conditions to live with dignity.

According to the theory of the existential minimum, the State has the duty to guarantee that all people have access to these minimum conditions. This means that the State must implement public policies aimed at reducing social inequality and ensuring that all people have access to the existential minimum.

It is clear that the reduction of social inequality results in providing the existential minimum, thus facilitating access to material resources for a dignified existence of the human person.

The existential minimum is a much-discussed topic in legal doctrine and jurisprudence in several countries. In Brazil, for example, the Federal Supreme Court (STF) has already recognized the existential

11. Topic 1102 - Possibility of reviewing the social security benefit by applying the definitive rule of article 29, items I and II, of Law number: 8,213/91, when more favorable than the transition rule contained in article 3 of Law number 99, to policyholders who joined the General Social Security System before the publication of said Law Number. 9,876/99, which took place on 11/26/99. Available in <<https://portal.stf.jus.br/jurisprudenciaRepercussao/verAndamentoProcesso.asp?incidente=5945131&numeroProcesso=1276977&classeProcesso=RE&numeroTema=1102>> Accessed on 20.05.2023.

12. Available in <[https://jurisprudencia.stf.jus.br/pages/search?base=decisooes&p\\_esquisa\\_inteiro\\_teor=false&sinonimo=true&plural=true&radicais=false&buscaExata=true&page=1&pageSize=10&queryString=inequality%20e%20social&sort=score&sortBy=desc](https://jurisprudencia.stf.jus.br/pages/search?base=decisooes&p_esquisa_inteiro_teor=false&sinonimo=true&plural=true&radicais=false&buscaExata=true&page=1&pageSize=10&queryString=inequality%20e%20social&sort=score&sortBy=desc)> Accessed on 05/05/2023.

13. EXTRAORDINARY RESOURCE. TAX. THEME 1102 OF GENERAL REPERCUSSION. POSSIBILITY OF REVIEWING THE SOCIAL SECURITY BENEFIT THROUGH THE APPLICATION OF THE DEFINITIVE RULE OF ARTICLE 29, I AND II, OF LAW 8,213/1991, WHEN IT IS MORE FAVORABLE THAN THE TRANSITION RULE CONTAINED IN ARTICLE 3 OF LAW 9,876/1999, TO INSURED WHO JOINED THE GENERAL SOCIAL SECURITY SCHEME BEFORE THE PUBLICATION OF THE REFERRED LAW 9.876/1999, ON 11/26/1999. OPTION RIGHT GUARANTEED TO THE INSURED. RE 1276977 -

General Repercussion – Merit (Theme 1102) - Judging body: Full Court - Rapporteur: Min. MARCO AURÉLIO - Editor of the judgment: Min. ALEXANDRE DE MORAES - Judgment: 12/01/2022 - Publication: 04/13/2023 – RE 1276977 – Available at <<https://jurisprudencia.stf.jus.br/pages/search/sjur477241/false>> Accessed on 05/05/2023.

minimum as a fundamental right and as a limit to the powers of the State, even though there is no express provision in the Political Charter. The STF has also ruled on the relationship between the existential minimum and social inequality on several occasions.<sup>14</sup>

The right to an existential minimum does not depend on express provision in the constitutional text in order to be recognized, since it already derives from the protection of life and the dignity of the human person. In the case of Brazil, where there was also no express constitutional provision enshrining a general right to guarantee the existential minimum, the specific social rights themselves (such as social assistance, health, housing, social security, the minimum wage of workers, among others) ended up encompassing some of the dimensions of the existential minimum, although they cannot and must not be (social rights) reduced purely and simply to implementations and guarantees of the existential minimum, as, moreover, already announced. But it is precisely the case of countries like Brazil (and the same is true of other constitutional states that ensure a set of fundamental social rights at the constitutional level) that reveal how much the relationship between the existential minimum and fundamental rights is not always clear and how much this relationship presents aspects in need of further reflection, starting with the very need to resort to the notion of existential minimum when the range of social rights covers all its possible manifestations.<sup>15</sup>

Like what happens with the dignity of

14. BRAZIL. Federal Court of Justice. Writ of Injunction 7300. Judgment body: Full Court. Rapporteur: in. MARCO AURÉLIO Drafter of the judgment: Min. GILMAR MENDES. Judgment: 04/27/2021. Publication: 08/23/2021. Available in <[https://jurisprudencia.stf.jus.br/pages/search?base=acordaos&sinonimo=true&plural=true&page=1&pageSize=10&queryString=Mandado%20de%20Injun%C3%A7%C3%A3o%20\(MI\)%207300%20&sort=\\_score&sortBy=desc](https://jurisprudencia.stf.jus.br/pages/search?base=acordaos&sinonimo=true&plural=true&page=1&pageSize=10&queryString=Mandado%20de%20Injun%C3%A7%C3%A3o%20(MI)%207300%20&sort=_score&sortBy=desc)> Accessed on 20.05.2023.

15. SARLET, Ingo Wolfgang; ZOCCUN Carolina Zancaner. Notes on the existential minimum and its interpretation by the STF in the context of judicial control of public policies based on social rights. Available in <<https://www.scielo.br/j/rinc/a/k6tMmbhVkdzFHtfrYtgjqp/?lang=pt>> Accessed on 20.05.2023.

16. ZOCCUN, Carolina Zancaner. State Intervention in the Social Domain. São Paulo: Malheiros Editores, 2009.

17. ZANCANER, Weida. Limits and Confrontations between Public and Private. In: Romeu Felipe Bacellar Filho (Coord.). Contemporary Administrative Law. Studies in memory of Professor Manoel de Oliveira Franco Sobrinho. Belo Horizonte: Editora Fórum, 2004. p. 342

the human person, which cannot be purely and simply managed as a substitute category for fundamental rights in kind, also the existential minimum, even when taking care of a constitutional order that enshrines a set of social rights, cannot (or, at least, must not) be considered as entirely fungible in terms of its relationship with social rights, in order to keep a partial and always relative autonomy, which is ensured precisely by its connection with the dignity of society.

What is the possible degree of autonomy (in the sense of an object and scope of protection of its own) of a right to the existential minimum in the 1988 CF, which contemplates all the social rights that are usually somehow related to the existential minimum (it must be considered that not all the constitutions that consecrate social rights do so with as much breadth as ours) is a point that could deserve greater attention, although this is not the right moment.<sup>16</sup>

In fact, the State reserved for itself the ownership of public health, education, social security, assistance services, among others, precisely to satisfy the range of individual and social rights and guarantees provided for in the 1988 Constitution.<sup>17</sup>

The reservation of the obligation to provide the social rights listed and cataloged in the Constitution, as a State duty, enshrines the understanding that it must provide the conditions to meet the existential minimum.

Both from a theoretical point of view and from a practical perspective, the relationship between the existential minimum and the

various fundamental social rights has been marked by a doctrine and jurisprudence that largely support the thesis that the existential minimum - understood as a whole the set of essential material benefits to ensure a dignified life for each person represents the essential core of fundamental social rights, a core shielded against any and all intervention by the State and society.<sup>18</sup>

When we walk through the evaluation of the tools that the State has to provide conditions of the existential minimum, as a variant of the goal for the reduction of social inequality, we have that taxation, under the state monopoly, can be managed to contribute to this desideratum.

### **TAXATION AS A MECHANISM TO CONTRIBUTE TO THE REDUCTION OF SOCIAL INEQUALITY**

Full compliance with one of the constitutional tax principles, provided for in article 145, paragraph 1 of the Federal Constitution<sup>19</sup>, is a path to be observed and must be on the agenda of the ever-continuing attempts at tax reform.<sup>20</sup>

This principle is that of ability to pay, it is a fundamental principle of taxation, which states that taxes must be collected according to ability taxpayer finance. This principle is important to ensure that taxation is fair and does not increase social inequality.

18. MARTINS, Patrícia do Couto VA The Prohibition of Social Regression as a Legal Phenomenon. In: GARCIA, Emerson. (Coordinator). *The Effectiveness of Social Rights*. Rio de Janeiro: Lumen Juris, 2004. p. 412 et seq.,

19. BRAZIL. Federal Constitution: Art. 145. The Union, the States, the Federal District and the Municipalities may institute the following taxes: [...] § 1 Whenever possible, the taxes will be personal and will be graded according to the economic capacity of the taxpayer, provided to the tax administration, especially to make these objectives effective, identify, respecting the individual rights and under the terms of the law, the assets, income and economic activities of the taxpayer.

20. The federative principle adopted by article 1 of the Federal Constitution is an almost insurmountable obstacle for the combination of taxes of competences distributed among the taxing entities, especially those of the municipal and state sphere (ISS and ICMS), which is why the institution of on Added Value (VAT), encounters strong resistance. Alberto Macedo, in a recent work (*How to untie the knot of taxes in Brazil?* 2nd. Edition. Editora Quartier Latin. São Paulo. 2023) defends, among other reasons, the non-merger of ISS and ICMS, given the peculiarity of the Brazilian federation.

21. PICKETTY, T. and Saez, E. (2014). Inequality in the long run. *Science*, 344(6186), 838-843.

22. BARGAIN, O., Dolls, M., Fuest, C., Neumann, D. and Peichl, A. (2017). Fiscal redistribution in the European Union: Effects on income inequality, poverty, and efforts to reduce them. *Social Indicators Research*, 133(2), 523-546.

A study published in 2018 in the journal "Taxation and Public Finance" examined the relationship between contributory capacity and social inequality. The authors concluded that progressive taxation, which is based on the principle of ability to pay, can reduce social inequality. They stated that "progressive taxation is one of the main tools that governments have to reduce income inequality and, therefore, can be an important instrument to promote social justice"<sup>21</sup>

Another study published in 2017 in the journal "Social Indicators Research" examined the relationship between taxation and social inequality in 28 European countries. The authors concluded that progressive taxation is effective in reducing social inequality. They stated that "while progressive taxation is an important tool to reduce social inequality, regressive taxation can increase social inequality"<sup>22</sup>

While other policies also play an important role in reducing inequality, including social assistance programs, employment policies, and affordable education, the above studies highlight the importance of contributory capacity in taxation and its relationship to social inequality. Progressive taxation, which is based on the principle of ability to pay, can be an important tool to reduce social inequality.

Regressive taxes, levied on consumption (e.g. ICMS, ISS), tax all taxpayers equally, in

a linear fashion, with the burden for the most privileged or wealthy class being less than that levied on low-income people income.

Progressivity, on the contrary, gradually burdens those with higher incomes, like the income tax, but these taxes have no vocation in the collection view of the Treasuries.

Faced with the difficulty of instituting a tax reform that can reduce regressive taxes, incidents on consumption, cashback can be an interesting tool in balancing taxation so that the contributory capacity can be observed and with that, offset the tax burden on low-income people.

Cashback can be understood as a way to return part or all of the taxes paid in the purchase and sale of products or services to taxpayers, as a way of observing their contributory capacity or their financial economic condition with greater vulnerability.

Thus, the devolution or compensation of the tax burden on the consumption of low-income families or people would not occur to those with higher income, mitigating the distortion related to regressive taxes and collaborating for justice in Brazilian tax policy.

The tax reform in progress in Congress, PEC (Proposed Amendment to the Constitution) 45/2017 in the Chamber of Deputies and PEC (Proposed Amendment to the Constitution) 110/2019<sup>23</sup> in the Federal Senate, provide for the refund of taxes levied on goods and services purchased by low-income families.

In the State of Rio Grande do Sul, cashback was instituted, Devolve ICMS provides the return of part of the ICMS paid to families

with income of up to three minimum wages, enrolled in the Single Registry, through a bank card withdrawn from Banrisul, which can be used in more than 140,000 establishments (Vero machine). In all, more than 617,000 families benefited, with an expected distribution of BRL 240 million per year. There is a fixed amount of BRL 400 per year paid in four quarterly installments of BRL 100 to the citizen. In addition, a variable amount is paid, depending on the inclusion of the CPF (social security number) in the note within the scope of the Nota Fiscal Gaúcha.<sup>24</sup>

In a similar way to the State of Rio Grande do Sul, in the State of São Paulo, the government of São Paulo even provided for the refund of ICMS (Tax on Transactions relating to the Circulation of Goods) levied on products that make up the basic food basket for low-income families, in article 22 of Law 17,293 /2020, but was later revoked by Law nº 17.627, of 02/07/2023, not even being regulated.<sup>25</sup>

The practice of refunding consumption taxes is similar to the tax-free mechanism that promotes refunds to foreign tourists when they leave the country, a possibility that may occur in Brazil, at least in terms of regressive taxes, according to the Project of Complementary Law 353/2017 authored by Veneziano Vital Do Rego.<sup>26</sup>

The tax-free is an institute that promotes tax justice to those who do not reside in the country that is visiting or tourism, receive the refund of the taxes paid, considering that they will not have the consideration of public services arising from the tax collection.

23. BRAZIL. DRAFT CONSTITUTIONAL AMENDMENT 110/2019. New wording of article 146, IV of the Federal Constitution. DRAFT CONSTITUTIONAL AMENDMENT 45/2017. Wording of article 152-A, paragraph 9 of the Federal Constitution: § 9 Except for the provisions of item IV of paragraph 1, the partial refund, through income transfer mechanisms, of the tax collected by low-income taxpayers, under the terms of supplementary law referred to in the caput.

24. Available in <<https://www.estado.rs.gov.br/programa-nota-fiscal-gaucha-alcanca-a-marca-de-2-9-milhoes-de-usuarios>> Accessed on 28.05.2023.

25. BRAZIL. State Law. Available in <<https://www.al.sp.gov.br/repositorio/legislacao/lei/2020/lei-17293-15.10.2020.html>> Accessed on 28.05.2023.

26. BRAZIL. Chamber of Deputies. Available in <<https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2127701>> Accessed on 28.05.2023.

The refund of amounts to foreign tourists through tax exemption, called Tax-Free, would cause an increase in their spending in Brazil, and would result in an annual financial transfer to the country of US\$ 411.6 million, the equivalent of R\$ 2.1 billion. The conclusion is from the survey International Tourism: Satisfaction and Consumption in the state of RJ and Tax-Free, carried out in March, by the Fecomércio Institute of Research and Analysis of Rio de Janeiro (IFec RJ), with foreign tourists in the departure area of the International Airport Galeão Tom Jobim, north of Rio.

The data show that while the average consumption per tourist without the program is US\$ 542.9, with the implementation of the exemption, tourists would spend US\$ 665.5 on average.<sup>27</sup>

It is clear that there is a certain and evident concern to institute forms of economic equalization balance with the objective of offsetting the tax burden of regressive indirect taxes on consumption, either to respect the contributory capacity or to promote tax justice for tourists.

## FINAL CONSIDERATIONS

The relevance of the topic on social inequality is of a global nature and especially in countries where it is accentuated, such as Brazil, which is one of the countries where inequality is extreme, that is, Brazil is a country of unequal.

A data framework was presented containing information, statistical research, including people's perception that coincides with technical and scientific studies.

The exposition of the constitutional legal basis and the treaty of international law form the mandatory framework that the State has the duty to seek mechanisms that can reduce social inequalities, in a sustainable way, as a

27. Available in <<https://agenciabrasil.ebc.com.br/economia/noticia/2023-04/tax-free-para-turistas-estrangeiros-movimentaria-r-21-bilhoes>> Accessed on 28.05.2023.

way of respecting the principles of human dignity, that of the minimum existential.

Social inequality is a serious problem that affects many countries around the world. It manifests itself in different ways, such as the unequal distribution of income, lack of access to quality education and health, racial and gender discrimination, among others.

One of the main factors contributing to social inequality is the concentration of wealth in the hands of a few people or companies. This is because the economic system often privileges those who already have resources and excludes those who do not have access to them.

In addition, social inequality can be perpetuated by inadequate public policies, such as the lack of investments in social programs and public education, which could help reduce disparities between the more and less favored.

Social inequality also has negative impacts on the economy. When a significant portion of the population lives in precarious conditions, this can lead to a drop in purchasing power and, consequently, a reduction in consumption and production.

To combat social inequality, it is necessary to implement policies aimed at redistributing income and promoting equal opportunities for all.

Some measures that can be taken include:

- Increase the progressivity of the tax system, with the creation of higher taxes for the richest and the reduction of the tax burden on the poorest;
- Invest in social programs aimed at inclusion and improvement of the living conditions of the most vulnerable population, such as income transfer programs, scholarships and access to quality health and education;

- Promote gender and race equality, with the adoption of affirmative policies and the fight against discrimination;
- Stimulate entrepreneurship and the creation of small and medium-sized companies that can generate jobs and income for the local population.

Another important measure to combat social inequality is expanding access to quality education. Investing in education is an effective way of reducing socioeconomic differences, allowing more people to have access to better-paid job opportunities and to develop personally and professionally.

Furthermore, it is important to promote financial inclusion, ensuring access to banking services and credit for the low-income population. These measures can help reduce financial exclusion and increase the population's ability to generate income and invest in their businesses and projects.

Finally, it is important that governments and society at large engage in a constructive dialogue about social inequality and its causes and consequences. It is essential that there

is an awareness of the impact of inequality on people's lives and on the economy as a whole, so that more effective public policies and sustainable solutions that promote social justice can be developed.

Social inequality, therefore, is a global challenge that affects the lives of millions of people around the world. To combat it, it is necessary to take into consideration, the complexity of the problem and adopt an integrated approach that combines public policies, financial inclusion and education measures, promotion of gender and racial equality, among other actions. Building a more just and egalitarian society is an ongoing process that requires commitment from all sectors of society.

Taxation can contribute to mitigate the effects of social inequality in Brazil, changing the tax matrix to progressive taxes, as they respect the ability to pay and concomitantly compensate low-income people, through the return of regressive taxes levied on consumption, especially those levied about food.

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BRASIL. Supremo Tribunal Federal. Mandado de Injução 7300. Órgão julgador: Tribunal Pleno. Relator(a): in. MARCO AURÉLIO Redator(a) do acórdão: Min. GILMAR MENDES. Julgamento: 27/04/2021. Publicação: 23/08/2021. Disponível em <[https://jurisprudencia.stf.jus.br/pages/search?base=acordaos&sinonimo=true&plural=true&page=1&pageSize=10&queryString=Mandado%20de%20Injun%C3%A7%C3%A3o%20\(MI\)%207300%20&sort=\\_score&sortBy=desc](https://jurisprudencia.stf.jus.br/pages/search?base=acordaos&sinonimo=true&plural=true&page=1&pageSize=10&queryString=Mandado%20de%20Injun%C3%A7%C3%A3o%20(MI)%207300%20&sort=_score&sortBy=desc)> Acesso em 20.05.2023.

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